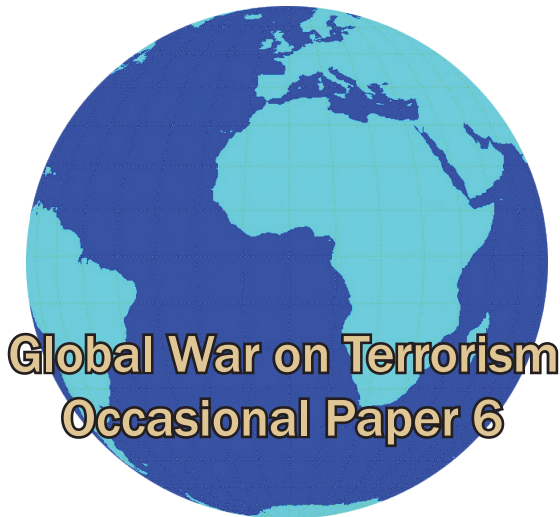




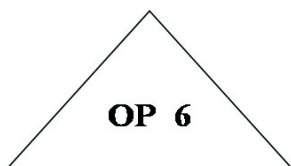
The Road to Abu Ghraib: US Army Detainee Doctrine and Experience

Major James F. Gebhardt, US Army (Retired)



Combat Studies Institute Press
Fort Leavenworth, Kansas

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Foreword

The US Army's experience with detainee operations spans the period from the Revolutionary War to the present. More to the point, over the past 60 years a body of international law and military regulations, the joint and Army doctrine derived from it, and two centuries of practical experience have emerged that inform current detainee operations in the Global War on Terrorism. The 2004 revelations of detainee maltreatment at the Abu Ghraib prison outside of Baghdad, Iraq have led to an exhaustive overhaul of Army doctrine and training with respect to this topic. The Army has identified disconnects in its individual, leader, and collective training programs, and has also identified the absence of a deliberate, focused doctrinal crosswalk between the two principal branches concerned with detainees, Military Intelligence (MI) and Military Police (MP). These problems and their consequences are real and immediate.

The perceptions of just treatment held by citizens of our nation and, to a great extent the world at large, have been and are being shaped by the actions of the US Army, both in the commission of detainee maltreatment but also, and more importantly, in the way the Army addresses its institutional shortcomings. James Gebhardt's study, *The Road to Abu Ghraib: US Army Detainee Doctrine and Experience*, captures the salient doctrinal issues of this critical aspect of the Army's battlespace. Indeed, this work, in DRAFT form, has already informed the evolution of detainee doctrine in the MP and MI schoolhouses, as well as Combat Training Center practical exercises. A solid understanding of our past experiences will aid those soldiers charged with executing this important mission today and in the future, and this study represents a valuable contribution to the effort.

Thomas T. Smith
Colonel, Infantry
Director of Combat Studies

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Preface

This study resulted from the confluence of three events: my return to the Combat Studies Institute (CSI) after an absence of 16 years, a list of 25 suggested research topics compiled and nurtured by Dr. William G. Robertson, and the immediacy of the issue to our Army and, indeed, to our nation. A decade, or perhaps even a generation from now, soldiers and leaders will be reading about Abu Ghraib Prison in their doctrinal manuals and professional readings. It is destined to become a defining moment in the Global War on Terrorism, much in the same way the My Lai massacre and its aftershock were in the Vietnam War.

Periodic releases of what formal Army internal investigations find, appearances of high-ranking Army and DoD officials in congressional hearings, and the very public analyses of ongoing legal proceedings against accused soldiers will keep the Abu Ghraib scandal on the stove for many months. Meanwhile, the Army has already begun the struggle to repair the damage, both real and perceived. The Army has a plan to fix itself so another Abu Ghraib does not again occur, not in Iraq and not on any other battlefield. I wrote this study to contribute to that process.

When the Global War on Terrorism began in late 2001, few Americans had ever heard of the Geneva Conventions. Now type “Geneva Convention” into any Internet search engine and you can easily find all four Geneva Conventions and read them in the comfort of your home in three languages. Our armed forces, though, have a long history of dealing with Geneva Conventions that began with implementing the Convention of 1929 during World War II and then led to the Conventions of 1949 a year before the beginning of the Korean War. The US Army, in particular, has a long history of dealing with the International Committee of the Red Cross, the Geneva-based non-governmental organization that is the “promoter and enforcer,” if one can use that phrase, of the Geneva Conventions.

This study examines the relationship over time between doctrine in two branches of the Army—Military Police (MP) and Military Intelligence (MI)—and the Geneva Convention Relative to the Treatment of Prisoners of War (GPW). Specifically, it analyzes the MP detention field manual series and the MI interrogation field manual series to evaluate their GPW content. It also further examines the relationship of military police and military intelligence to each other in the enemy prisoner-of-war (EPW) and detainee operations environment, as expressed in their doctrinal manuals. Finally, the study looks at the Army’s experience in detainee operations

through the prism of six conflicts or contingency operations: the Korean War, Vietnam, Operation URGENT FURY (Grenada, 1983), Operation JUST CAUSE (Panama, 1989), Operation DESERT STORM (Iraq, 1991), and Operation UPHOLD DEMOCRACY (Haiti, 1994).

I have written this study to inform Army leaders, from platoon level to the Pentagon, about the Army's history of detainee operations. Iraq is not the first war where the Army has struggled with applying the Geneva Conventions to insurgents. A similar struggle occurred in 1965 as President Lyndon B. Johnson was sending increasingly larger forces to Vietnam, a situation then viewed by many as an insurgency. Operation IRAQI FREEDOM is not the first war where EPW divided themselves into competing groups, rioted among themselves, and committed murder. That same phenomenon occurred in the Korean prisoner-of-war camps in 1951. And Abu Ghraib is not the first detention facility where the MP and MI missions, detention and interrogation respectively, came into conflict. Similar tension, albeit in a more subdued form, occurred on a smaller scale in a joint detention/interrogation facility in Haiti in 1994. This study explores these and other experiences in the interest of saying to the current generation of leaders, "The Army has been there and done that before. Now what can we learn from it?" With due introspection, wide media and public interest, and, no doubt, abundant congressional oversight, the US Army will heal itself. Of that I am sure.

Several people and organizations have assisted me in this work. Dr. William G. Robertson, CSI, Fort Leavenworth, provided the topic and an azimuth. Lieutenant Colonel Brian DeToy, chief of the Research and Publication Department, CSI, read and suggested improvements to the manuscript and continues to support the broad dissemination of the study. Lieutenant Colonel (Retired) David Cavaleri, my co-worker, was a continuous source of reflection and encouragement, both necessary commodities in research-based endeavors. Our editor, Catherine Shadid Small, improved the quality of the manuscript greatly with her thoughtful suggestions. The staff of the Combined Arms Research Library (CARL) at Fort Leavenworth helped me to acquire several hard-to-find documents, the raw materials of any finished historical work. For their contributions I thank all these people. I reserve for myself the responsibility for errors of fact or interpretation.

James F. Gebhardt
Fort Leavenworth, Kansas

Introduction

On 19 May 2004, a 24-year-old US Army reservist military policeman stood in front of a summary court martial in Baghdad, Iraq and pleaded guilty to three criminal charges: conspiracy to maltreat detainees; dereliction of duty for willfully failing to protect detainees from abuse, cruelty, and maltreatment; and maltreatment of detainees. Later on that same day, General John Abizaid, commander of Central Command (CENTCOM), and Lieutenant General Ricardo Sanchez, commander of Combined Joint Task Force 7 and the senior US military commander in Iraq, were questioned by members of the Senate Armed Services Committee in Washington about the treatment of detainees at Baghdad's Abu Ghraib prison during the fall months of 2003.

In response to a senator's question regarding the roles of and relationship between Military Intelligence (MI) and Military Police (MP) in the prison, General Abizaid responded,

Our doctrine is not right. It's just not right. . . . This is a doctrinal problem of understanding . . . what do the MPs do, what do the military intelligence guys do, how do they come together in the right way. And this doctrinal issue has got to be fixed if we're ever going to get our intelligence right to fight this war and defeat this enemy.¹

The Department of the Army Inspector General, Lieutenant General Paul T. Mikolashek, in findings publicly released on 21 July 2004, came to the same conclusion:

Doctrine does not clearly and distinctly address the relationship between the MP operating I/R [internment/resettlement] facilities and the Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. Neither MP nor MI doctrine specifically defines the interdependent, yet independent, roles, missions, and responsibilities of the two in detainee operations.²

Both General Abizaid and General Mikolashek reached their conclusions based on analyses of current operating doctrine and its implementation in an active theater of war. This study, however, looks back in time at the historical experience of the US Army to discover the genesis of this problem. It examines the experience of the US Army in applying the Geneva Conventions of 1949 to enemy prisoners of war (EPW) and detainees in conflict situations. This effort is more akin to a survey than an

in-depth study due to considerations of both time and resources. It begins with a brief look first at the EPW/detainee doctrine in force at the end of World War II. That doctrine was controlled by US War Department Technical Manual (TM) 19-500, *Enemy Prisoners of War* (5 October 1944), and reflected in the field manuals of the branch that had the most contact with detainees—the MP branch. Wherever there are EPW, there will be MI interrogators. Therefore, this study also examines the relationship of MI branch personnel to EPW, along with the mutual relationship of MP and MI personnel in the EPW environment.

On the eve of the Korean Conflict, the Geneva Conventions of 1949 were drawn up and presented to the world by a large body of humanitarian delegates meeting in Switzerland under the auspices of the International Committee of the Red Cross (ICRC). This study will briefly review the origin and purpose of these standards, particularly emphasizing the Geneva Convention Relating to the Treatment of Prisoners of War (GPW).

The first opportunity US Armed Forces had to implement the Geneva Conventions of 1949 came even before their formal ratification by our government—during the Korean Conflict of 1950-53. This paper will examine, in sufficient detail, the treatment of EPW and detainees in that conflict to evaluate how both the conventions and the US military doctrine that evolved during the conflict were implemented.

Despite the problems in EPW affairs exposed by the Korean War, the Army did not publish new regulatory guidance on treatment of EPW and detainees until the late summer of 1963, with the release of Army Regulation (AR) 633-50, “Prisoners of War Administration, Employment, and Compensation.” New or revised field manuals dealing with EPW matters were published for the MI branch (US Army Field Manual [FM] 30-15, *Intelligence Interrogations*) in 1960 and for the MP branch (FM 19-40, *Enemy Prisoners of War and Civilian Internees*) in 1964.

The American experience in Vietnam from 1965 to 1973, and the period of postwar reflection that followed through around 1981, present a second opportunity to review how US military doctrine concerning the handling and treatment of war prisoners and detainees in a conflict situation evolved. New or revised MP field manuals were published in 1967 and 1976, and MI interrogation field manuals in 1967, 1969, 1973, and 1978. This study will review all of these doctrinal publications, along with a special prisoner-of-war study, now declassified, completed in 1968 at the direction of then Chief of Staff of the Army, General Harold K. Johnson.

The Adjutant General published a new regulation (AR 190-8) pertaining to treatment of EPW in June 1982. This regulation and the doctrine of the post-Vietnam period were in effect when US forces invaded Grenada during Operation URGENT FURY (1983). The MI branch released a new field manual on intelligence interrogation (FM 34-52) in 1987, applicable to our activities in Panama during Operation JUST CAUSE (1989-90) and in Iraq in Operation DESERT STORM (1991). FM 34-52 was updated in September 1992, about a year before our intervention in Haiti for Operation UPHOLD DEMOCRACY (fall 1994). AR 190-8 was revised and reissued in 1997, and the MP branch published a restructured FM 3-19.40, *Military Police Internment/Resettlement Operations*, in August 2001. This study concludes with a statement of doctrinal positions relating to the treatment of EPW in early August 2001, just as we were being drawn into full participation in the Global War on Terrorism.

Examination of the historical record will provide material to analyze and comment on three EPW-specific issues: the reflection of Geneva Convention standards of EPW treatment in MP and MI doctrinal publications of the past half-century, the application of Geneva Convention standards to the conduct of US Army forces in specific conflict situations, and the relationship of US Army MP and MI personnel to each other on the battlefields and in EPW confinement facilities over this chronological period, doctrinally and in practice.

This study avoids detailed discussion of the technical legal issues surrounding the Geneva Conventions of 1949 and their force in Army regulations and US law, not because the author has no appreciation for these issues, but rather because he is not qualified in the field of international and operational law. This study intends to inform a broad military audience, from senior noncommissioned officers through general officers, on an issue that has always been important in conflict, if not in the public understanding of conflict. The American people and current members of the US Armed Forces are now learning what experts in this field have known since the protracted truce talks that ended the Korean Conflict: Prisoner-of-war issues are important at many levels, even to the level of either hindering or furthering the national interests of the United States.

As our Army enters the fourth year of what, since September 2001, has been labeled the Global War on Terrorism with new impetus and perspective gained from experiences in Iraq and Afghanistan, it is positioned to move forward on prisoner-of-war and detainee issues. Let us be ever mindful, however, of the past.

Notes

1. Cited from a transcript of the Senate Armed Services Committee, 19 May 2004. The hearing's full transcript is available online at www.scvhistory.com/scvhistory/signal/iraq/sasc051904.htm, last accessed on 22 July 2004.

2. *Detainee Operations Inspection* (Washington, DC: Department of the Army, The Inspector General, 21 July 2004), v.

Chapter 1

Enemy Prisoner-of-War Doctrine at the End of World War II

The US Army acquired considerable experience in handling EPW during World War II.¹ The number of EPW in US custody grew from a miniscule 32 in May 1942 to approximately 4.3 million at the end of hostilities in the European and Mediterranean Theaters of Operations.² In the Pacific Ocean Theater of Operations, US Army personnel were operating EPW facilities on Saipan, Guam, and the Hawaiian Islands for small numbers of prisoners, and at the cessation of hostilities in September 1945 Army personnel had to construct camps in the Philippine Islands to hold over 260,000 surrendered Japanese soldiers.³ Prisoners from both theaters of operations were held in custody for many months after the war ended, the last German prisoners going home from the continental United States (CONUS) by June 1946 and from confinement in Europe by June 1947; the last Japanese prisoners were released by December 1946.⁴

The responsibility for internment, care, treatment, and employment of these prisoners rested with The Provost Marshal General of the Army Service Forces in CONUS and the commander of Army forces in the field for prisoners who had not yet been transported to CONUS. In accordance with practices and doctrine dating back to World War I, the Provost Marshal General and MP units were responsible for the charge and custody of prisoners. This activity during World War II was guided by two MP field manuals: FM 29-5, *Military Police*, published in December 1941, followed by FM 19-5, *Military Police*, published in June 1944.

Because FM 19-5's doctrine was still in effect at the start of the Korean conflict, a brief examination of its provisions relating to EPW is appropriate.⁵ The manual begins its discussion of prisoners of war with an affirmation of the US government's adherence to the GPW, 1929, followed by a general definition of the term "prisoner of war." It goes on to emphasize the importance of the Geneva Convention to US soldiers, who may themselves become captives at some point in time and expect reciprocal treatment from the enemy. The text advises that all officers whose command may have any responsibility for handling EPW should receive a course of instruction in the provisions of the Geneva Convention.

FM 19-5 contains a standard but important caution titled "Coercion" that is worthy of quotation:

Coercion will not be used on prisoners or other personnel

to obtain information relative to the state of their Army or country. Prisoners or others who refuse to answer such questions may not be threatened, insulted, or unnecessarily exposed to unpleasant treatment of any kind.⁶

This manual presumes that the first interrogation of an EPW will be conducted by an interrogation team and that it will occur at battalion level or higher. Until that first interrogation is accomplished, escorts are cautioned not to provide prisoners with any food, drink, or cigarettes.⁷

According to FM 19-5, the first encounter between MP soldiers and EPW would likely occur at a division collecting point located in the general area of the division command post and manned by the division MP unit. At this location, the MPs would take formal custody of EPW from the escort commander, conduct another search of the prisoners for weapons and documents, maintain the already imposed segregation, and guard the prisoners until they were evacuated. Prisoners would then be subject to examination at the division collecting point by MI interrogation team personnel, who would also examine any documents turned over by the escort commander or found during a search. If an interrogation team was not available, the battalion or regiment intelligence officer would supervise this search. Care in the form of rations, water, and aid to the sick and wounded prisoners would also be provided at this location.

From the division collecting point, the EPW would be evacuated to an enclosure that contained facilities for processing and temporary detention of prisoners in the combat zone or the communications zone, and was operated by the corps or army. At this location, the prisoners would receive serial numbers and a basic personnel record, would be photographed and finger printed, would have an inventory of their personal effects drawn up, and have other data collected. Also, they would be subject to another physical inspection or examination. FM 19-5 mandates that EPW receive the same standard of medical and dental care as provided for US troops.⁸

The final disposition of EPW would then be a prisoner-of-war camp, a permanent or semi-permanent installation in the zone of communications or zone of interior. FM 19-5 states that “the housing facilities provided in prisoner-of-war camps are equivalent to those provided for United States troops at base camps.”⁹ The camp would be operated under the command of a responsible military officer, and prisoners would be organized into companies, each commanded by a US Army commissioned officer. EPW were to be separated by race and nationality and by officer and enlisted

status, and they were authorized to select spokesmen to act on their behalf with the camp administration.

The manual describes provisions for clothing, feeding, and working the prisoners, for their sending and receipt of mail, and for the establishment of canteens for sale of sundry items. It recognizes the authority of two organizations to inspect prisoner-of-war facilities: the ICRC and the International Young Men's Christian Association.

FM 19-5 also explains how to discipline, put on trial, and punish EPW for minor and major offenses committed during captivity. Minor offenses would be dealt with by commanding officers imposing summary punishment. The manual deemed prisoners subject to the laws, regulations, and orders of the US Army, including the Articles of War, and also to the law of the country in which they were being held. While prisoners were liable to trial and punishment by military courts, their punishment could not exceed specific limits stated in the 1929 Geneva Convention.

Two MP organizations existed to handle prisoners of war as outlined in FM 19-5: the MP escort guard company (fixed or mobile) and the MP prisoner-of-war processing company.¹⁰ The escort guard company's mission was to provide a guard force for EPW both at an enclosure or camp and during transfer to and between collecting points, enclosures, camps, and ports of embarkation. The guard company, formed on tables of organization and equipment (TOEs) 19-47 (mobile) and 19-247 (fixed), was to consist of a headquarters element and four escort guard sections, with a machine gun section in the fixed version. Personnel strength would range from five officers and 130 enlisted men in the fixed company to five officers and 158 men in the mobile company.¹¹ Both companies were to be equipped with a mixture of M-1 Garands, M-2 Carbines, Browning M1919A4 .30-caliber machine guns, M3A1 submachine guns, and 12-gage riot shotguns. The mobile guard company would also possess two Browning M2 .50-caliber heavy-barreled machine guns. A single escort guard company could handle from 2,000 to 2,500 prisoners at enclosures, 1,500 to 2,000 at camps, and 1,000 to 1,500 while marching. These companies were assigned to higher headquarters in a theater and to service commands, defense commands, and ports of embarkation.

According to FM 19-5, the processing company's mission was to receive, search, and process prisoners at enclosures and camps. Formed on TOE 19-237, the processing company was to consist of a headquarters and three operating platoons, five officers, and 110 enlisted men in all.¹²

Each platoon would have a headquarters and five specialized sections to receive, process, photograph, fingerprint, and establish records for EPW. The platoon was to be a stand-alone organization, manned and trained to operate apart from other platoons. Each platoon was expected to process 60 prisoners per hour. The prisoner-of-war processing company was to be assigned to field armies and zones of communication.

A clear division of labor between MP and MI units and personnel is evident in the MP manual. MPs were responsible for escorting, guarding, and processing prisoners of war; MI teams were responsible for examining (interrogating) prisoners, documents, and enemy materiel for intelligence information.

How well this doctrine served the needs of the US Army in the Korean conflict will be a subject of subsequent review. But first, it is necessary to examine the revised international standards for the treatment of EPW that were represented in the Geneva Convention of 1949.

Notes

1. For a detailed discussion of the World War II experience, see the declassified study *A Review of the United States Policy on Treatment of Prisoners of War*, Department of the Army, Office of The Provost Marshal General (Washington, DC: 1968), vol. 3, DTIC AD 504 748-2. For a study of the US use of war prisoners as labor, see George G. Lewis and John Mewha, *History of Prisoner of War Utilization by the United States Army 1776-1945* (Washington, DC: Government Printing Office, 1982), beginning on page 75.

2. The numbers of EPW held by 12th and 6th US Army Groups in Germany at the war's end were combined to reach a total of approximately 3.5 million. An additional 300,000 surrendered to the 5th US Army in Italy, and 425,000 were interned in the continental United States (CONUS) at the end of May 1945. *History of Prisoner of War Utilization*, 83, fn. 26; 237, fn. 95; 91, Table 2; 191.

3. *Ibid.*, 250, 253.

4. *Ibid.*, 173, 243, 260.

5. This description is based on an examination of Field Manual (FM) 19-5, *Military Police* (Washington, DC: War Department, 14 June 1944), Chapter 11: Prisoners of War, Chapter 14: Military Police Escort Guard Company, and Chapter 15: Military Police Prisoner of War Processing Company.

6. FM 19-5, *Military Police*, 163.

7. *Ibid.*, 163. This caution will be repeated in subsequent MP field manuals and the commodities in question will be referred to as "comfort items."

8. *Ibid.*, stated on 168 and again on 172.

9. *Ibid.*, 168.

10. Described in FM 19-5, chapters 14 and 15 respectively.

11. See TOE 19-247, Military Police Escort Guard Company (Fixed), 21 December 1948, and TOE 19-47, Military Police Escort Guard Company (Mobile), 28 February 1949.

12. See, for example, TOE 19-237, Military Police Prisoner-of-War Processing Company, 2 July 1951.

Chapter 2

The 1949 Geneva Conventions

The convention, that met in Geneva during the spring and summer of 1949 to revise and redraft humanitarian law, was a culmination of four years of effort by many people and organizations, but particularly of the ICRC. Since its founding by a group of humanitarians led by the Swiss entrepreneur Henri Dunant in 1863, the ICRC had led the world in developing, codifying, and promulgating rules of humanitarian treatment to combatants on the battlefield.¹ World War II, which had just recently ended, had clearly demonstrated the inefficacy of the two Geneva Conventions of 1929: “Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field” and “Geneva Convention Relative to the Treatment of Prisoners of War.”

During their mutual four-year conflict on the Eastern Front, neither the German nor the Soviet government had made any credible or effective effort to regulate its army’s conduct toward an international standard of humane treatment of EPW, on the battlefield or in the camps. German and Soviet prisoners who were not killed upon capture later died in staggering numbers from disease, malnourishment, and maltreatment in the camps of the Reich and in the Gulag.² In the Far East, Japanese forces, guided by a political and moral code that saw dishonor in captivity and redemption in death, treated their war prisoners with unrestrained brutality. Civilians on every battlefield of the war had suffered in ways and in numbers not before imagined. And the suffering did not stop with the silence of the guns in Europe in the late spring of 1945.

Volunteers and delegates of the Geneva-based ICRC working in post-war Europe sought to bring relief to three large contingents: millions of displaced persons from throughout Europe seeking to reunite with their families and return to their homes, or seeking new homes upon being expelled from territories now occupied by the Soviet Army; hundreds of thousands of still-interned and recently liberated German war prisoners in need of care; and civilians everywhere in Europe suffering from the devastating effects of the war.³ Max Huber, a Swiss jurist who had been president of the ICRC since 1928, in February 1945 proposed talks to modify the existing Geneva conventions. In September of that year he contacted the foreign offices of the United States, Great Britain, the Soviet Union, China, and France, asking them to send delegates to a meeting in Geneva. These talks resulted in four conventions that were approved by the ICRC

at an international convention in Stockholm in 1948. The Swiss government then called a diplomatic conference that convened in April 1949, and resulted in the adoption of all four conventions on 12 August 1949.⁴

These four conventions, now commonly and collectively referred to as the Geneva Conventions for the Protection of War Victims of 12 August 1949, are titled and abbreviated as follows: Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GWS); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (GWS Sea); Geneva Convention Relative to the Treatment of Prisoners of War (GPW); and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC).⁵

Since this study is concerned primarily with how US Armed Forces have applied GPW, a brief overview of its 143 articles is in order. Part I of GPW, “General Provisions,” consists of 11 articles. Two of these, Articles 3 and 4, bear particular mention. Article 3 establishes a basic standard of treatment to be rendered to persons no longer actively participating in hostilities due to sickness, wounds, detention, or any other cause, during armed conflict not of an international character. At the time of the convention’s signing, Article 3 was viewed as an attempt to offer a basic minimum standard of protection to those who fought in civil wars and insurrections.⁶ Article 4 defines who is entitled to prisoner-of-war status under the convention and, thereby, afforded additional protections. Article 4 includes a four-part test to be applied to members of militias and volunteer corps, requiring that they be commanded by a responsible person, have a fixed sign visible at a distance, carry arms openly, and conduct operations in accordance with the laws and customs of war.

Part II of the convention, “General Protection of Prisoners of War,” consists of five articles (12—16) that list specific protections and rights to be accorded persons who qualify under Article 4 as prisoners of war. Excerpted text from these articles can be found in many of the US Army MP and MI field manuals published over the past half century.

Part III of the convention, “Captivity,” is a lengthy section of 92 articles (17—108) that regulate every aspect of the treatment of EPW during captivity, from the moment of capture until repatriation. Section I (Articles 17—20) regulates the beginning of captivity. It is Article 17, for example, that obligates a prisoner of war only to give his name, rank, date of birth, and serial number, and nothing else upon capture. Section II (Articles 21 through 48) governs the treatment of prisoners during internment. Section

III (Articles 49 through 57) regulates the use of prisoners as labor. Section IV (Articles 58 through 68) addresses the financial affairs of prisoners. Section V (Articles 69 through 77) defines the relationships of prisoners to the outside world. Section VI (Articles 78 through 108) defines the relationship of EPW to the authorities running the camps.

Part IV of the convention, “Termination of Captivity,” contains three sections. The first section (Articles 109 through 117) describes the mechanisms governing direct repatriation and accommodation of seriously wounded and sick prisoners back to their own country or to a neutral country. The second section (Articles 118 and 119) pertains to release and repatriation of prisoners of war at the close of hostilities. The third section (Articles 120 and 121) instructs the parties how to deal with reporting about and the handling of the remains of prisoners who die in captivity.

Part V of the convention, “Information Bureau and Relief Societies for Prisoners of War,” in Articles 122 through 125, instructs the parties of a conflict how to establish and run offices and agencies that track EPW. Article 123 empowers the ICRC to create a Central Prisoners of War Information Agency in a neutral country to serve as a clearing house of information regarding the prisoners of a conflict.

Part VI of the convention, “Execution of the Convention” (Articles 126 through 143), provides the instructions and tools for implementing the convention and also for denouncing the convention (Article 142), should a party to the convention wish to do so.

Fifty-five nations signed the four new Geneva Conventions by the end of December 1949.⁷ While the United States was one of those nations, the US Senate did not ratify the Geneva Conventions until 2 February 1956. The Army subsequently published its FM 27-10, *The Law of Land Warfare*, on 18 July 1956.⁸

Notes

1. For a full historical treatment of the founding of the ICRC, see Caroline Moorehead, *Dunant's Dream: War, Switzerland, and the History of the Red Cross* (New York: Carroll & Graf Publishers, 1998), Chapter One. Its original name, "International Standing Committee for Aid to Wounded Soldiers," was changed to "International Committee of the Red Cross" in 1880. See also G. I. A. D. Draper, *The Red Cross Conventions* (New York: Praeger, 1958), 3.

2. *Gulag* is actually a Russian acronym (*glavnoye upravleniye lagerov*—main administration for camps) used since the time of Lenin to refer to the countless prison camps of the Soviet penal system. The term was introduced broadly to the West by Aleksandr Solzhenitsyn in his *Gulag Archipelago* trilogy.

3. Postwar conditions in Europe are aptly described in Moorehead, Chapter Seventeen.

4. This chronology is adapted from Moorehead, 552-3.

5. These titles may be prefaced by "First" through "Fourth" and appear in slightly different form in various sources. The full English text can be found in Draper, Appendix 3; Department of the Army Pamphlet 27-1, *Treaties Governing Land Warfare* (December 1956) in Chapters 4-7; and at the ICRC Internet website: <http://www.icrc.org>, last accessed on 22 July 2004. (After selecting a language, look on the left side of the main page for a Geneva Conventions callout.)

6. Its provisions, however, were subsequently ignored in the French-Indochina War and the French-Algerian conflict, and in the British suppression of the Mau Mau insurrection in Kenya. Article 3 text began to appear with strong emphasis in US Army doctrinal manuals in the spring of 1967.

7. Moorhead, 557.

8. FM 27-10, *Law of Land Warfare* (Washington, DC: Government Printing Office, 18 July 1956).

Chapter 3

The First Application of the Geneva Conventions—Korea 1950-53

While the four conventions were not ratified by the US Senate until 2 February 1956, their impact actually was felt soon after the initiation of hostilities in Korea on 25 June 1950. One month into the conflict, on 23 July, the Commander in Chief, Far East (CINCFE), General Douglas MacArthur, announced that the United Nations Command (UNC) had adopted the provisions of the 1949 Geneva Prisoner of War Convention. President Syngman Rhee made a similar proclamation on behalf of the Republic of Korea (South Korea).¹

The surprise and rapidity of the North Korean invasion of South Korea forestalled any effort to plan for the care of EPW on the scale necessary. On 10 July, just two weeks after the North Korean invasion had begun, the Pusan Base Command provost marshal identified the need to establish an EPW compound, selected a site, and began to acquire necessary supplies and building materials.² Pusan Base Command was shortly thereafter designated the Pusan Logistical Command and assigned to the Eighth US Army, Korea (EUSAK). When the first enclosure built on 24 July filled up, another site was chosen 10 miles north of Pusan and the prisoners were moved to that location on 5 August.

EUSAK took over formal responsibility for EPW administration on 1 August 1950. Prisoner-of-War (POW) Enclosure 1, as the new site came to be known, contained 1,899 EPW at the end of August. While this was officially a UNC facility, the Commander, EUSAK or the CINCFE decided early on that US personnel would handle EPW processing at the camp level and operate all EPW camps using Republic of Korea (ROK) guard units. This action was necessitated by the tendency of ROK forces to mistreat or kill prisoners with even slight provocation. ROK Army troops were assigned the guard mission, under close supervision of US Army personnel, to ensure they observed the Geneva Conventions and at the same time to reduce the number of non-ROK troops required. The Eighth Army deactivated Pusan Logistical Command in mid-September, replacing it with the 2d Logistical Command, which then assumed responsibility for EPW facilities in and around Pusan and later at other locations throughout Korea.

After the September 1950 Inchon landings and the subsequent retreat of North Korean forces, which caused a massive influx of prisoners into

the system, transit camps were constructed at Pyongyang, Wonson, and Inchon. In Pyongyang, barbed wire was strung around a group of warehouse buildings. The Inchon camp was first established in the ruins of a local jail and later supplemented with a small tent city and then a factory building. These camps were set up in existing facilities where suitable accommodations existed. The number of prisoners in Pusan grew from 10,800 at the end of September to over 62,500 on 31 October. The Inchon camp contained over 6,000 prisoners on 30 September, just two weeks after the invasion, and 33,500 in early November.³ Anecdotal evidence suggests that while the conditions in these camps were initially quite primitive and the prisoners contained in them sorely needed medical care and nourishment, the camp commanders did their best to provide both. An inspection visit by the ICRC to the Inchon jail on 30 September found prisoners eating rice, fish, and soya beans. A return visit on 8 November to the same facility by the same inspector found prisoners eating the standard army ration given to ROK Army soldiers.⁴

Additional camps continued to be constructed in the Pusan area during October and November, since the 2d Logistical Command anticipated needing facilities for an additional 100,000 EPW by the end of November. Just as anticipated, these new camps were needed when the Chinese Army came across the Yalu River in November and attacked southward. Some 25,000 prisoners at Pyongyang were evacuated to Inchon, raising the population there to over 63,000. By mid-December, that entire contingent had been evacuated to Pusan. By the end of 1950, EPW in the custody of the UNC in camps around Pusan rose to over 137,000.⁵ In light of the danger this large EPW force posed in the main UNC logistical base at Pusan, 2d Logistical Command decided to construct new EPW facilities on Koje-do, an island some 40 miles off the coast southwest of Pusan port. Initially, planning foresaw creating facilities for 60,000 prisoners plus supporting personnel, a number that eventually expanded to 220,000 prisoners plus support.⁶

In late January 1951, POW Camp 1 was designated a major subordinate command of the 3d Logistical Command and put under the administrative headquarters of 60th General Depot. With the use of prisoner labor, construction of four enclosures began on 1 February 1951. Each enclosure contained eight compounds planned to hold from 700 to 1,200 men. The compounds were separated from each other only by barbed wire. This facility was designed to hold a maximum of 38,400 prisoners but ultimately confined 53,500 by the end of February, 99,000 at the end of March, and 140,000 by June of 1951.⁷ Another 7,000-10,000 prisoners remained on

the mainland at Pusan, mostly in the prison hospital there.

EPW overcrowding on Kojé-do caused a myriad of problems, one of which was the generation and maintenance of prisoner personnel records. A shortage existed of trained custodial personnel to process prisoners of both Korean and Chinese nationality frequently lacking identification. Names from both languages had to be transliterated into English, a difficult process requiring skilled translators who were in short supply. Every prisoner had to be fingerprinted and photographed, another difficult task under the circumstances. Record-keeping problems were exacerbated by often uncooperative prisoners who gave false names and by the frequent transfer of prisoners between compounds.

Camp administrators in Korea were faced with another problem not anticipated by doctrine—the requirement to screen prisoners beyond rank, gender, and nationality. As prisoners were processed into the Pusan camps in the fall of 1950, camp authorities saw that among their Korean prisoners was a mixture of North Koreans, some who were hard-core communists and others not so disposed, and South Koreans who had been impressed into the North Korean Army during the initial offensive across South Korean territory, the majority of whom were virulently anti-communist. Among the Chinese prisoners who began flowing into the camp system in 1951 were former Nationalist Chinese soldiers who had fallen under Communist Chinese government control during their civil war in the late 1940s and had been re-indoctrinated and pressed into military service. Large numbers of these soldiers were also committed anti-communists. Article 16 of the Geneva Convention requires that all prisoners be treated alike, without any adverse distinction based on race, nationality, religious belief, or political opinions. The camp authorities determined that “separate but equal” compounds would satisfy that requirement. Efforts were made to screen the communist and anti-communist prisoners into separate compounds during the move from Pusan camps to Camp Kojé-do, though they were not totally successful. The mixing of ardent communists and equally strident anti-communists in an already overcrowded environment led to many instances of assault and murder as each faction struggled for control of its respective compound.

A shortage of trained guard personnel played a key role in the struggle to control the camp. The security force assigned to Camp Kojé-do consisted of only six escort guard companies and two ROK guard platoons. However, a camp of this size necessitated 50 escort guard companies. Using ROK guards because of language and the shortage of American guards was

legitimate. But the ROK guards' low level of training and their frequent verbal and physical clashes with the prisoners exacerbated the general problem of camp control.

Internal security of the camp was so poor that UNC personnel did not enter the compounds at night. When the first act of mass defiance occurred in June 1951, resulting in three prisoners killed and eight seriously wounded by ROK Army guard gunfire, camp authorities did not recognize it as an organized event.⁸ In July, the 2d Logistical Command issued red, short-sleeve, short-trouser summer uniforms to the prisoners in order to reduce black-market trafficking in clothing and facilitate prisoner identification. While the uniform's color was of no consequence to Chinese prisoners, North Korean prisoners in several compounds reacted violently. During the Japanese occupation of Korea, convicted criminals had been forced to wear red clothing. Three prisoners were killed and four wounded in the ensuing violence and the red clothing was withdrawn. In mid-August, another demonstration resulted in the deaths of eight prisoners and injury of 21 others.

As the struggle for control of individual compounds continued through the summer and fall of 1951, scores of prisoners were beaten or murdered by fellow prisoners. Although disciplinary and judicial proceedings against EPW were permitted by the Geneva Convention (Articles 82 through 108) and provided for in Army regulations, camp commanders were, in fact, greatly inhibited in their use of judicial process. An important factor was the practical difficulty of applying the due-process US Army legal system to the chaotic environment of the EPW camp. Victims of beatings, if they survived, and witnesses had to be willing to offer evidence against perpetrators. Physical evidence had to be gathered and preserved. Defendants were entitled to legal representation in their own language. Aside from these practical issues, the UNC, for political reasons, discouraged the use of judicial process by camp commanders by prohibiting the conduct of trials while the armistice negotiations were in progress (from July 1951).⁹

The CG, 2d Logistical Command, took over direct supervision of UNC POW Enclosure 1 (Camp Kojedo) on 5 September 1951 in another command reorganization. Based upon recent inspections by his Far East Command provost marshal, General Matthew B. Ridgway (CINCFE) told General James A. Van Fleet (CGEUSAK) the situation at Kojedo was critical and dangerous. The reasons were numerous: a weak camp commander, improper organization and inadequacy of the 60th General Depot to direct so huge an installation, insufficient MP escort guard companies,

low morale and poor discipline in ROK Army MP battalions, and poorly qualified US Army officers and enlisted men.¹⁰ After visiting Koje-do in September, General Van Fleet reported back to General Ridgway that a field army should not be expected to administer effectively a permanent installation containing 165,000 EPW. He recommended the prisoners be removed from Eighth Army's responsibility, either by removing them from Korea or by placing the camps under another headquarters. Van Fleet requested additional spaces, units, and adequately trained personnel be provided to accomplish the mission if Eighth Army were to continue to have the responsibility.¹¹

In an attempt to alleviate the immediate problem, General Van Fleet activated the 8137th Military Police Group, with three assigned battalions and four attached escort guard companies, in late October 1951 and sent it to Koje-do. He also assigned the newly activated 93d MP Battalion headquarters to the Pusan enclosure. A battalion of the 23d Infantry Regiment was made available in November, and over 9,000 US and ROK personnel were stationed on Koje-do in December, still 6,000 fewer than the number requested.

The problem of screening prisoners for political affiliation had grown much worse when armistice talks began in the summer of 1951 because it was clear right away that prisoner repatriation would become a major issue in any agreement signed. While the Geneva Convention made ample provision for the repatriation of prisoners (Articles 109 through 119), it did not accommodate prisoners undesiring of repatriation. Literally tens of thousands of prisoners in UNC custody did desire repatriation to North Korea or Communist China, chief among them the impressed South Korean anti-communists and former Nationalist Chinese soldiers. In January and February 1952, President Harry S. Truman essentially decided the UNC should recognize the right of prisoners not to be repatriated.¹²

Implementation of this decision at the camp level required the re-screening of all EPW to discover whether they would accept or resist repatriation. Efforts to conduct this re-screening led to increased strife between Communist-controlled enclosures and the administration at Camp Koje-do, beginning with an incident on 18 February 1952. A battalion-size force from the 27th Infantry Regiment (Wolfhounds), 25th Infantry Division, was used in an unsuccessful attempt to wrest control of one compound away from its Communist leadership. Despite the death of 55 inmates and wounding of 159 others (22 of whom subsequently died) in a compound of over 9,000 prisoners, the Communists did not relinquish control.¹³ By

April, UNC control of the Communist-run compounds in Camp Kojedo was nominal and limited to the posting of perimeter guards. Brigadier General Francis T. Dodd, placed in command of POW Camp 1 on 20 February 1952 to reestablish order, was himself taken hostage by Communist prisoners on 7 May 1952 in a well-planned tactical maneuver. He was released unharmed late on 10 May, after the UNC acceded to several of the prisoners' demands.¹⁴ By this time it had become clear to the UNC that uprisings in the camps were inspired and led by Communist agents infiltrated into the camp system specifically for that purpose. Prisoner actions were being manipulated by the North Korean side to influence the ongoing armistice negotiations.

Upon the resolution of the Kojedo hostage crisis, the UNC quickly took strong measures to regain control of prisoner-of-war facilities, beginning with Prisoner-of-War Enclosure Number 10, the hospital facility in Pusan containing over 10,000 prisoners. To force prisoner compliance with movement orders, the UNC withheld food in the prisoners' present location but made it available at the new location. In the end this tactic, which was strongly protested by the on-scene ICRC delegate, did not work. Using concussion grenades, tear gas, and the forces of two infantry battalions, the hospital camp commander moved to regain control of the recalcitrant compounds on 20 May.¹⁵

General Van Fleet, with approval from the recently appointed CINCFE, General Mark Clark, authorized a plan to regain control of Kojedo, by force if necessary. This plan was executed in early June, with support from the 38th Infantry Regiment and attached tanks to regain control of one compound. A week later, Brigadier General Haydon L. Boatner, the newly appointed commander of Camp Kojedo, deployed soldiers of the 187th Airborne Regimental Combat Team and a dozen tanks to seize control of another compound.¹⁶ That 3 hours of fighting cost the lives of 31 prisoners and one US soldier, with another 139 prisoners and 14 US soldiers wounded.¹⁷ In the end, Camp Kojedo was brought back under full UNC control and the prisoners were dispersed to new, smaller, and more secure compounds on the island and the mainland. A total of 35,000 prisoners were thus relocated in June and July, leaving 48,000 North Korean prisoners still on Kojedo Island. An additional 27,000 detainees were to be released, over a 90-day period, to the Republic of Korea's control upon determination that they would resist repatriation, which left 9,600 detainees still in custody by late September.¹⁸

In an effort finally to relieve the Eighth Army of its EPW burden, on

10 July 1952 the CINCFE established the Korean Communications Zone (KCOMZ) and transferred to that command, under Major General Thomas W. Herren, all responsibility for prisoner-of-war administration, control, internment, utilization, and logistical support. The KCOMZ in turn established a Headquarters Prisoner of War Command under the command of Brigadier General Boatner, who had regained control of the Kojedo camps after the Dodd hostage incident.¹⁹ This permitted General Van Fleet and his successor, General Maxwell Taylor, to keep their focus on issues closer to the combat. The Eighth Army remained responsible for screening prisoners to determine EPW status, for the EPW collecting points and transit camps where this screening was to be conducted, and for evacuation of EPW to the camps designated by the CG, KCOMZ.²⁰

Neither reorganization of the high-level command structure on Kojedo nor the use of force ended the in-camp resistance of Communist EPW and internees throughout Korea. Among the measures approved by the CG, KCOMZ in August 1952 was the shooting of prisoners who threw, or attempted to throw, rocks at guards. This guidance was disseminated to POW Command officers at a conference on 20 August and published in special orders to prisoners; it included the threat of shooting if a POW was “observed hitting, striking, kicking, biting, or in any other way observed doing injury or maiming or threatening to injure or maim UNC personnel.”²¹ The policy was first tested on 1 October 1952, the Communist Chinese regime’s anniversary, at a Chinese Army EPW camp on Cheju-do, an island off the south coast of Korea. Soldiers of the 1st Battalion, 35th Infantry Regiment and an MP service company used rifle fire to restore order, killing 56 prisoners and wounding 91 others. A subsequent investigation concluded that this use of maximum force was appropriate given the situation and the terrain.²²

Another confrontation between prisoners and camp authorities occurred in December 1952, in a civilian internee camp on Pongam-do, a small island not far from Kojedo. The combined US Army and ROK guard force used warning shots and then aimed fire from shotguns, then rifles, and finally machine guns to break up a formation of 3,600 Communist internees who had defied orders to disperse and cease their disruptive activities. The terrain and wind conditions did not favor the use of non-toxic gas. When the smoke from the firing cleared, 85 prisoners were dead and 113 wounded required hospitalization.²³

After this incident, General Clark directed that nontoxic gas must be employed in similar situations in the future and rifle and machine-gun fire

used only as a last resort.²⁴ He also pressed his military and political superiors in Washington for more authority to conduct judicial proceedings against prisoners. The resolution of the issue was further complicated by the presidential election of Dwight Eisenhower in November of that year and the necessity to conduct a review of the prisoner-of-war issue with his advisers. In the end, General Clark authorized further tactical measures to tighten control over prison compounds. To counter all the Communist propaganda generated by their exploitation of the prisoner-of-war issue, he ordered his intelligence staff to compile and publish a report detailing the enemy's means and methods. The published version was titled *The Communist War at POW Camps* and released in January 1953.²⁵

January and February 1953 were characterized by more incidences of rioting and defiance, usually handled with tear gas and concussion grenades.²⁶ A large-scale riot took place on 7 March at Yoncho-do, a small island sub-camp off Koje-do, that ended in the use of small-arms fire, resulting in 23 dead and 60 wounded prisoners.²⁷ During March, 37 other, less-serious incidents occurred and were resolved without gunfire. The month of April saw the planning and execution of Operation LITTLE SWITCH, the exchange of sick and wounded prisoners negotiated at Panmunjom.²⁸ When that operation concluded on 2 May, approximately 6,700 prisoners had been returned to Communist control. Of 29 incidents that occurred in camps during April, only eight resulted in the use of non-toxic gas.²⁹ May was quiet in comparison, with only three incidents of mass defiance.³⁰

Of far greater import in May was the serious crisis in US-ROK relations conditioned by South Korean opposition to the proposed armistice.³¹ While the ROK Army was providing the bulk of the security forces at all nine EPW installations in Korea, the US Army provided a small cadre of administrative and technical personnel. On 12 May, President Rhee queried General Clark about the possibility of his security troops releasing non-repatriate Koreans without UNC involvement. The Korean government sought to ensure that these prisoners would be released in Korea and not turned over to the control of a neutral country. While UNC forces had had some warning, they could do little to counter the move. They did not want to use lethal force against anti-Communist Koreans, be they prisoners or ROK soldiers. In the end, the CG, KCOMZ directed the CG, POW Command to plan for an orderly withdrawal of American personnel if it became necessary to prevent excessive loss of life. And in fact, over a 3-day period that began on 17 June, Korean security forces released some 26,000 Korean nationals from detention.

The UNC now had reason to fear that ROK Army units might attempt forcefully to release additional non-repatriate and repatriate prisoners, both Korean and Chinese.³² Additional threats existed of ROK civilian looting of evacuated facilities or attempts by Chinese and Korean prisoners to break out en masse. The CG, KCOMZ sought US Army troop reinforcements from the CG, Army Forces Far East (AFFE). The CG, EUSAK, in forwarding this request to the CG, AFFE, offered to provide an infantry regiment if a replacement regiment were moved from Japan to Korea as soon as possible. While the CG, AFFE approved this arrangement, CIN-CUNC directed the CG, KCOMZ to rebuff demands by ROK forces to release prisoners, but also authorized him to withdraw his forces and retire if that would avoid bloodshed. After a 21 June incident in a non-repatriate Chinese camp on Cheju-do that was resolved by the use of gas, General Clark ordered the CG, AFFE to place one infantry regiment on alert for possible air movement to Korea. The CG, AFFE directed immediate movement of one battalion, and three days later an entire infantry regiment was ordered to Korea. On 1 July, the CG, KCOMZ had under his control for EPW camp employment the 34th Infantry RCT and two battalions of the 19th Infantry Regiment (24th Infantry division), the 160th Infantry Regiment (40th Infantry Division), a reinforced battalion of 5th Cavalry Regiment (1st Cavalry Division), a reinforced company of 1st Amtrac Battalion (1st Marine Division), and a reinforced company from the 9th Infantry Regiment (2d Infantry Division). The remaining elements of the 24th Infantry Division in Japan were also alerted for movement to Korea.

These US Army and Marine Corps combat units were used to secure several detention facilities during the month of July, as prisoners were consolidated at selected locations waiting for release to North Korea, Taiwan (Chinese non-repatriates), or South Korea, or for transfer to the Indian Army's custody in the demilitarized zone (DMZ) as provided for in the armistice agreement. The tendency was to employ ROK Army units at repatriate camps and US military units at non-repatriate camps. The number of prisoners and detainees in UNC custody at the end of July was 66,000 repatriates and 23,500 non-repatriates.³³ The Communist prisoners stepped up their passive and active resistance during July and early August, as the armistice negotiations neared their end and repatriation appeared imminent. During this period, 45 major incidents were reported from the Kojedo camp complex, of which 37 involved mass defiance and seven mass assaults against camp security personnel. Non-lethal chemicals were used to restore order in 40 of the incidents.³⁴

Operation BIG SWITCH, the exchange of the remaining 76,000 detainees held by the UNC for some 12,700 UNC prisoners held by North Korea, was executed during the first two weeks of August. Despite the best efforts of UNC security forces, the prisoners and detainees did their utmost to destroy or damage all means of conveyance (vessels, trains, and trucks) and facilities during their movement from place of confinement to point of release into North Korean control.³⁵

The final act in the release of Korean and Chinese EPW and detainees from UNC custody occurred from 8-23 September, when 22,600 non-repatriates (about 8,000 Koreans and 14,600 Chinese) were transferred to the Indian Army's control in the DMZ.³⁶ Under the armistice terms, these prisoners had to be interviewed one more time to determine their final disposition. Upon completion of that transfer, POW Command began releasing its non-organic security units. When all the prisoner-of-war camps had been cleared and turned over to designated consignees, on 20 November 1953 the POW Command was redesignated Headquarters Kojedo Station Complement.³⁷

Up to now, this study has emphasized the administrative and security issues of the EPW experience. Other aspects of the Korean War experience also warrant consideration, particularly the prisoner labor and education programs. Prisoners were used for countless engineering projects, beginning with building their own camps and enclosures.³⁸ As part of this effort, they drained paddy lands, built dams, improved roads, and dug ditches. In the building trades they constructed fences, buildings, and sewage systems, installed lighting and plumbing systems, and made bricks and metal roofing. Prisoners also performed general housekeeping chores within prison compounds, giving the camps a certain level of self-sufficiency. Prisoners from mainland camps around Pusan were used as labor to load and unload ships, sort goods and store them in warehouses, process raw materials, stack and reclaim lumber, build boxes and crates, and dig graves. They repaired folding cots and cargo nets, renovated wooden pallets, and salvaged light metals for manufacture of common utensils. The chronic shortage of transportation and security personnel severely limited the use of prisoner labor significantly distant from their place of confinement.

The Eighth Army recognized the need for a prisoner education program as early as October 1950 but was unable to sustain an effort during the EPW evacuation to the Pusan area.³⁹ A second start-up effort was made in mid-March 1951, beginning with the publication of news sheets and the establishment of a literacy program in both Korean and

Chinese. Later in March, movies with simultaneous translation provided by language-skilled detainees were shown to thousands of prisoners. In early April, CINCUNC directed the establishment of a Civil Information and Education (CI&E) section in his headquarters and made it responsible for planning and implementing an expanded educational program.

Because a completely staffed CI&E section had existed in Japan since 1946, it was quickly applied to this task. A Materials Production Division in Tokyo, which produced instructional materials in Korean and Chinese, supported a Field Operations Division in Korea. The Korea division had three branches: Instructional Programs, Evaluation, and Service. In a short period of time the CI&E program encompassed the following 11 areas:

- Orientation classes, 4 hours weekly to expound the program's political aims
- Radio broadcasting, using loudspeakers and a central station and both live and taped broadcasts from the Korean Broadcasting System
- Vocational training in skills that contributed to the self-sufficiency of the compounds like carpentry, blacksmithing, shoe repair, straw weaving, tailoring, bricklaying, and barbering
- Agricultural education, which was well-suited to the prisoner population including field instruction and work, and resulting, over time, in the planting of large plots that provided thousands of pounds of fresh vegetables to the prisoners' diet
- Literacy training, which largely failed among Chinese prisoner populations due to political resistance by their Communist leadership
- School-continuance education (akin to a current GED) for prisoners whose general education had been interrupted for military service, focusing on standard school subjects such as language, literature, mathematics, history, and sciences
- Library, containing both works of fiction and current-affairs periodicals
- Athletics, both individual and group activities, for entertainment and maintenance of physical health
- Recreation other than athletics, primarily music and drama
- Youth organizations, principally Boy Scout meetings
- Health education, to promote personal hygiene and camp sanitation and to assist UNC medical personnel in the prevention of disease

The first phase of the CI&E program, which began in June 1951 and

ended with the hostage taking of General Dodd in May 1952, was considered successful since it operated in 26 of Koje-do's 28 compounds. Some form of instruction had been imparted to 86,000 North Korean and 17,000 Chinese prisoners and 43,000 civilian internees.

The second phase of the program began with its re-establishment in non-repatriate camps following the dispersion of prisoners and ended in June 1953, when the ROK government released 27,000 prisoners in a three-day period. During this period, the program was characterized by logistical and personnel problems among the staff, wide dispersion of teams, and scheduling problems in camps where construction labor activities had higher priority. Programs in non-repatriate camps were somewhat more expansive than in repatriate camps, with greater opportunities for vocational training and athletics. In December 1952, the CI&E Field Operations Division personnel in Korea, along with their mission, were transferred to the KCOMZ and then assigned to the POW Command.

During its third and last phase (June-September 1953), the CI&E program consisted, in part, of a series of sequential information programs that prepared non-repatriate prisoners for transfer to the Indian Army's custody in September. Prisoners took on many of the training responsibilities, assisted by CI&E personnel. Upon the request of South Korean and Nationalist Chinese government officials, lesson plans for most instructional courses were prepared and handed over to prisoner-students for their use in the DMZ. Prisoners were also allowed to keep their textbooks and other instructional materials.

From the conflict's beginning to its end, the ICRC actively monitored how UNC forces treated EPW and civilian internees. Having received acceptance of appointment from the Republic of Korea on 16 July 1950, the first ICRC delegate arrived there to inspect UNC EPW enclosures just days later.⁴⁰ The anecdotal evidence of ICRC inspections indicates that the delegate was evaluating camp conditions in several categories: strength, accommodations, food or diet, kitchens, medical treatment (including presence of staff and supplies), prisoner body weight (as a measure of nutrition monitoring), clothing, mail, morale, spiritual needs, education, recreation, requests from prisoners or spokesmen, complaints, and general remarks. Copies of the ICRC delegates' reports were given to the UNC and also sent back to Geneva from where they were delivered through intermediaries to the North Korean government. While the UNC was not always able, particularly early in the conflict, to satisfy the strict requirements of the Geneva Convention in all areas of prisoner treatment,

the general tenor of ICRC reports suggests that no effort was being spared. Certainly, the ICRC had ready access to all UNC internment facilities and made frequent and regular visits. There is no indication the UNC ever denied ICRC inspection of any camps or of the prisoners in those camps.

On at least one occasion, in December 1952, the ICRC made public its earlier conclusion that the UNC actions at Kojoe-do in resolving the Dodd hostage-taking incident in May appeared to be a violation of the Geneva Convention.⁴¹ The Department of the Army authorized General Clark to release the response letter he had sent to the ICRC in June. While reaffirming his command's respect for the GPW, General Clark reiterated that "the UNC would not tolerate terrorism, rioting, or mutiny and would take adequate steps to prevent mass breakouts."⁴²

In a meeting between the ICRC chief delegate and CINCUNC late in December 1952, the delegate reminded General Clark of the UNC's Geneva Convention obligations. General Clark reminded the ICRC delegate that the prisoners considered themselves combatants and had never accepted non-belligerent status. He assured the ICRC delegate that force would be used as a last resort and that prompt disciplinary action had been and would be taken against security personnel found to be abusing prisoners. General Clark also offered assurances that the UNC Inspector General would pay particular attention to the EPW camps in Korea.

These conferences between the ICRC and UNC staff and commander in chief resulted in a visit to the EPW camps by an observer team from the CG, KCOMZ. These teams reported back in January 1953 that they had found a course of instruction for guards that included a "demonstration of how to beat prisoners of war with the rifle butt."⁴³ The CG, KCOMZ ordered further investigation of this report and instructed the commanding officer of POW Command to launch an immediate reorientation of all the personnel in his command, with particular focus on the provisions of the Geneva Convention.

The last issue needing to be addressed in the Korean War era is the relationship between MI interrogators and EPW. This relationship toward the end of World War II is described in FM 30-15, *Military Intelligence Examination of Enemy Personnel, Repatriates, Documents, and Materiel*.⁴⁴ MI interrogation teams were assigned on the basis of one team per infantry regiment, division, and higher headquarters, where they operated under the unit intelligence officer's supervision. The first encounter of these teams with EPW was expected to occur at regiment and division

collecting points.⁴⁵ Consistent with the MP doctrine, unit intelligence personnel would conduct this examination if there were no interrogation teams available. The 1944 doctrine provides for interrogation at higher headquarters (division, corps, and army) for designated prisoners, without reference to a specific facility where these interrogations might occur.

MI interrogators operated under the same guidance as military police regarding use of coercion:

In accordance with the Geneva Convention of 1929, no coercion may be used on prisoners or other personnel to obtain information relative to the state of their army or country; and prisoners or others who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.⁴⁶

The interrogation procedures outlined above served the US Army well at the beginning of the Korean conflict. North Korean Army and Chinese Communist prisoners and their captured documents were the principal sources of intelligence information. Prisoners were extremely cooperative and frequently, depending on their rank and position, provided information of substantial military value.⁴⁷ From secondary accounts, it appears prisoners were interrogated at various times and places from the moment of capture until they were evacuated to an EPW enclosure or camp. Some high-value prisoners were transported to higher headquarters for interrogation. The best example of this practice may have occurred on 25 October 1950. On that day, the G2 of US I Corps arranged to transport the first Chinese prisoner captured by ROK forces at Unsan to the Eighth Army forward command post for interrogation. During the ensuing week, other prisoners were examined at Eighth Army headquarters; three were even polygraphed.⁴⁸

The revision of FM 30-15, issued in September 1951, does not mention a dedicated interrogation facility at an EPW enclosure, such as is illustrated in the November 1952 edition of FM 19-40. This MP field manual shows a prisoner-of-war holding area (commonly referred to as a “cage” in MP doctrinal literature) for 1,500 prisoners of various categories, with a small portion of the space dedicated to interrogation prisoner-of-war (IPW) teams for their use.⁴⁹ But the pages that follow show several schematics of more permanent EPW facilities, and none of them contain any suggestion of an area set aside for the use of MI interrogations. This does not mean that such interrogations were not contemplated. The so-called “second

phase” of interrogation, in which intelligence of strategic value and nature was collected, was intended to occur at the central EPW enclosure.⁵⁰

The coercion warning contained in the 1951 version of FM 30-15 is similar to that published in the 1943 edition, with the deletion of the 1929 date and the addition of several lines stating what the prisoner was obligated to give upon questioning (name, rank, serial number, et cetera).⁵¹ This new manual contained only a modest amount of GPW content, most of which is found in Appendix III. It seems this appendix intends to show the American soldier what his rights would be if he were captured, rather than to emphasize the rights of an enemy prisoner in an interrogation environment.

What lessons did the US Army draw from the EPW experience during the Korean conflict? While the war was still being fought, in November 1952, the US Army initiated a new field manual series, FM 19-40, titled *Handling Prisoners of War*. This manual defers to the ongoing war in Korea in the first paragraph: “It should be recognized, however, that in active theaters of operations where the Army is serving as a part of an allied command, compliance with operational instructions other than or in addition to these herein specified might be required.”⁵²

FM 19-40 acknowledges the Geneva Conventions of 1949 in the foreword and in the inclusion of extracted and summarized GPW material throughout the text. The “coercion” caution contained in the 1944 manual is replaced with a paragraph with language extracted from the six different articles of GPW regarding general protection of EPW. FM 19-40 contains enlarged sections on disciplinary sanctions and judicial proceedings that can be used with prisoners of war, all based on provisions of GPW.

While the new field manual acknowledges that “the systematic and methodical interrogation of prisoners of war is one of the most productive sources of intelligence,” it is careful to separate MP responsibilities from MI functions.⁵³ Military police are required to be familiar with interrogation principles only to avoid improper handling of prisoners, thus reducing their value as information sources. According to FM 19-40, military police may interrogate prisoners only to the degree necessary for their administration, movement, control, and processing.

The Korean conflict’s most significant impact on FM 19-40 is shown in the manual’s series of EPW-enclosure schematics. Figure 3 shows a detailed diagram of an EPW cage for 1,500 persons, with fenced sections for enlisted men, officers, noncommissioned officers, females, and protected

persons; figure 4 shows a branch tent camp for 250 enlisted men; figure 5 shows a base tent camp for 1,000 enlisted men; figure 6 shows an EPW camp for 1,800 enlisted men; figure 7 shows a standard headquarters and headquarters company for a 30,000-man camp, and figure 8 shows the organization of an EPW camp for 30,000 prisoners, contained in 10 compounds of 3,000 prisoners each.⁵⁴ These schematics, in aggregate, reflect the US Army's acknowledgement of its lack of planning and preparation for the care and feeding of massive numbers of EPW, such as were captured in the days after the Inchon landing in the fall of 1950.

FM 19-40 contains a paragraph, summarized directly from GPW, detailing the procedures to follow in the event a prisoner dies in captivity. Another paragraph gives basic guidance on the use of EPW for labor. The sections that describe the organization and function of the EPW processing company and the MP guard company are essentially identical to those of the previous manual, except that in the case of FM 19-40, increased numbers are assigned to the capabilities of the MP guard company. A guard company in 1952 was capable of providing guard for 2,000 to 2,500 prisoners at a cage and 1,500 to 2,000 prisoners at a camp, vice 1,000 in 1944.

The final section of FM 19-40 is an appendix entitled "Training," that shows the subjects and hours recommended for both the guard and processing companies. Of the 48 hours of total training guard personnel are to receive, GPW training should make up 4 hours. Processing personnel should have 5 hours of their total 82 hours of training be GPW training. That a new MP field manual series containing a considerable amount of Geneva Convention material, detailing schematics of EPW containment facilities and discussing guard and processing personnel training subjects was created suggests the MP doctrine writers were keenly aware of changes occurring in this mission area. This field manual would remain the standard doctrinal publication on handling of EPW until its revision in 1964.

The US Army, when it engaged in a detailed historical study of the EPW experience in 1966-68, drew the following conclusions about the Korean conflict:

- An army commander should not be burdened with the administration of his communications zone (which included the prisoner-of-war camps).
- A properly operated PW program required sufficient and qualified administrative and security personnel.

- PW camp locations and layouts should be determined before the fact, considering terrain, water supply, and avoidance of towns and villages.

- Positive identification of each individual prisoner and maintenance of personnel records is required.

- The camp commander must have the authority to apply an effective judicial system to enforce discipline among the prisoners.

- The camp commander must have full authority to use the amount of force necessary to maintain absolute control of the camp.

- No commander or soldier should ever yield to the prisoners and should issue instructions fairly, clearly, and firmly and force necessary compliance.

- Camp authorities must be able to enter any part of the compound or enclosure at any time, day or night.

- Prisoner leaders must be identified and segregated to deprive rank-and-file prisoners of leadership.

- The camp commander must establish an intelligence system within the PW camp to keep himself apprised of the plans and activities of the prisoners.

- A prisoner of war does not automatically become a non-belligerent upon capture.

- Labor projects should be planned and programmed to employ as many prisoners as possible.⁵⁵

- A preplanned and coordinated intelligence and counterintelligence program should be developed to provide a continuous, timely flow of intelligence information from the point of capture to the repatriation phase.⁵⁶

- Mass surrender is a viable tactical or logistical maneuver employed to disrupt and overwhelm the capturing force's combat and logistical operating systems.⁵⁷

Viewed a half century later, the EPW experience in Korea provides other lessons that may have application now and in the future:

- While not seeming as important to commanders as the support and advancement of their own units at the fighting front, EPW issues were vitally important and decisions about EPW reached even the highest levels of the national command authority. Field commanders ignored these issues at their peril.

- Treatment rendered to EPW and detainees in the custody of US Armed Forces was judged on the world stage against the standards of GPW and the high moral and ethical standards the United States traditionally projected to the world, irrespective of the enemy's failure to uphold the same GPW standards.

Notes

1. Roy E. Appleman, *South to the Nakdong, North to the Yalu (June—November 1950)* (Washington, DC: Center of Military History, US Army, 1986), 262.
2. “The Handling of Prisoners of War During the Korean War,” Department of the Army, Pacific, Military History Office Headquarters, (June 1960), 1-5, details this initial effort to establish an EPW camp in Pusan.
3. William L. White, *The Captives of Korea* (New York: Charles Scribner’s Sons, 1957), 25, 33. White provides these figures citing reports of ICRC delegate Frederick Bieri. “The Handling of Prisoners of War During the Korean War,” 5-7.
4. White, 25, 33.
5. *Ibid.*, 9.
6. *Ibid.*, 11.
7. “The Handling of Prisoners of War During the Korean War,” 12-14; *A Review of the United States Policy on Treatment of Prisoners of War*, III-233.
8. “The Handling of Prisoners of War During the Korean War,” 15-16.
9. *A Review of the United States Policy on Treatment of Prisoners of War*, III-234.
10. “The Handling of Prisoners of War During the Korean War,” 18.
11. *Ibid.*, 19.
12. The events leading up to this decision are described in Walter G. Hermes, *Truce Tent and Fighting Front* (Washington, DC: Office of the Chief of Military History, US Army, 1966), Chapter VII, “Prisoners of War.” President Truman’s participation is described on page 151.
13. “The Handling of Prisoners of War During the Korean War,” 25.
14. The incident and its aftermath are fully discussed in Hermes, 243-62.
15. There is an eyewitness account of this action in Stanley Weintraub, *War in the Wards: Korea’s Unknown Battle in a Prisoner-of-War Camp* (San Rafael, CA: Presidio Press, 1976).
16. At the time of this appointment, Brigadier General Boatner was an assistant division commander of the 2d Infantry Division. He had spent the better part of World War II serving with Chiang Kai Chek’s Nationalist Chinese Army forces in Burma and was fluent in Mandarin Chinese. He commanded the 3d Infantry Division in 1954-55 and retired from active duty in 1960 after serving as the Provost Marshal General from 1957.
17. Hermes, 259; “The Handling of Prisoners of War During the Korean

War,” 34.

18. “The Handling of Prisoners of War During the Korean War,” 36-7.

19. Ibid., 37-8.

20. *A Review of the United States Policy on Treatment of Prisoners of War*, III-276.

21. “The Handling of Prisoners of War During the Korean War,” 43, 44-45.

22. Ibid., 47.

23. Hermes, 405-6; “The Handling of Prisoners of War During the Korean War,” 49-51.

24. “The Handling of Prisoners of War During the Korean War,” 52.

25. Hermes, 407.

26. “The Handling of Prisoners of War During the Korean War,” 54, 56-8.

27. Ibid., 58-9.

28. In Hermes, Operation LITTLE SWITCH, 414-9; “The Handling of Prisoners of War During the Korean War,” 62-7.

29. “The Handling of Prisoners of War During the Korean War,” 68.

30. Ibid., 69.

31. Ibid., summarized from 70-8.

32. Ibid., summarized from 78-83.

33. Ibid., 85.

34. Ibid., 86-7.

35. Ibid., 87-9. 36. The negotiations that led to this procedure are described in Hermes, Chapter XIX. The procedure’s execution is described in “The Handling of Prisoners of War During the Korean War,” 90-3.

37. “The Handling of Prisoners of War During the Korean War,” 94.

38. Ibid., 99-101.

39. Ibid., summarized from 102-22.

40. White, 7. This general characterization of ICRC activities is drawn from a reading of White.

41. “The Handling of Prisoners of War During the Korean War,” 52-4.

42. Ibid., 52.

43. Ibid., 53.

44. FM 30-15 was published on 7 December 1943, with change 1 released on 15 July 1944.

45. FM 30-15, 1943, 2, 8.
46. Ibid., 5.
47. *A Review of the United States Policy on Treatment of Prisoners of War*, III-191.
48. Appleman, 751-2.
49. FM 19-40, *Handling of Prisoners of War* (Washington, DC, Department of the Army, 3 November 1952), figure 3 on page 43.
50. FM 30-15, September 1951, paragraph 6.a.(2) on page 6.
51. Ibid., paragraph 30 on page 27.
52. FM 19-40, 1952.
53. Ibid., 17.
54. Ibid., 43-54.
55. *A Review of the United States Policy on Treatment of Prisoners of War*, III-239-40.
56. Ibid., III-194.
57. Ibid., VIII-7-8. Analysis of this issue relies heavily on the experience at Inchon in Korea. The study's authors concluded that Communist China was the most likely potential enemy to engage in this tactic.

Chapter 4

Interlude, 1954-1964

Initial interest in EPW matters at the Korean War's end was largely confined to development and promulgation of the Code of Conduct for Members of the United States Armed Forces that President Eisenhower signed into law in August 1955. The US Senate ratified the Geneva Conventions for the Protection of War Victims of 12 August 1949 on 2 February 1956. The provisions of these four conventions were incorporated into Field Manual (FM) 27-10, *The Law of Land Warfare*, published in July 1956, and the full text of all four treaties was published in Department of the Army Pamphlet 27-1, *Treaties Governing Land Warfare*, in December 1956.

A survey of selected field manuals published from 1954 to early 1965 is revealing. Those published for conventional infantry squads, platoons, companies, and battalions in this period contain scant references to EPW, usually only in the context of rapid evacuation to the rear and without reference to the Geneva Conventions.¹ For example, FM 7-11, 1965, for infantry rifle companies, uses the following language: "The company commander is responsible for handling prisoners of war in accordance with the battalion SOP. See FM 19-40."²

In the unconventional warfare arena, a revised version of FM 31-15, *Operations Against Irregular Forces* was published in May 1961 that defined the term "irregular" using the words "guerrilla, partisan, insurgent, subversive, resistance, terrorist, and revolutionary."³ It was careful in the paragraph "Relationship of Forces" to distinguish between elements that met the GPW Article 4 four-part test and were, therefore, entitled to legal status as EPW and concomitant GPW protection, and those that did not.⁴ In another paragraph titled "Apprehended Irregular Force Members," it is recommended that "prisoners against whom specific crimes can be charged should be brought to justice immediately."⁵

Another manual in this series, FM 31-21, *Guerrilla Warfare and Special Forces Operations*, was published in September 1961. In a subparagraph concerning the legal aspects of guerrilla warfare, it states that "guerrilla warfare is bound by the rules of the Geneva Conventions as much as is conventional warfare." It continues carefully to point out that a guerrilla who meets the GPW Article 4 four-part test is entitled to "the same treatment from his captors as the regular soldier."⁶ There is no discussion of the status of a guerrilla combatant who does not meet this test. Another special

operations field manual, FM 31-22, published two years later in late 1963, cautions US advisory personnel to “advise against mistreating suspects or prisoners.”⁷ A 12-week, 588-hour training course for civil guard forces outlined in this manual does not contain any time for Geneva Convention training.

In August 1963, the US Army released a new regulation governing prisoner-of-war matters, superseding the previous regulation that dated back to 1944.⁸ By this regulation, the US Army remains the DoD executive agency for EPW handling and treatment. Within the Army, the Provost Marshal General is the supervisory staff agency. For reasons that are not clear in retrospect, the purpose and scope of the regulation do not include the treatment or handling of EPW from the moment of capture. Rather, the regulation provides guidance to control almost every aspect of a war prisoner’s existence from the moment that prisoner has reached a camp facility or enclosure. In language taken directly from GPW, it defines on the first two pages who an EPW is and even prescribes the use of a military tribunal to determine such status when doubt exists. But the regulation contains no broad statement of US Army policy regarding what level of treatment under the GPW should be rendered to enemy personnel (prisoner, internee, or otherwise detained) who come under the control of a US Army unit.

A new edition of the MP FM 19-40, *Enemy Prisoners of War and Civilian Internees*, appeared just one year later, in August 1964. Its purpose and scope include the phrase, “from capture through evacuation to internment.”⁹ The manual states five objectives in handling EPW and detainees:

- Acquisition of maximum intelligence information within restrictions imposed by the law of land warfare
- Prevention of escape and liberation
- By example, promotion of proper treatment of own personnel captured by the enemy
- Weakening the will of the enemy to resist capture
- Maximum use of prisoners of war and civilian detainees as a labor source¹⁰

The principles that are employed in achieving these objectives, the text continues, include the Geneva Conventions of 1949 and include the following:

- Humane treatment

- Prompt evacuation from the combat zone
- Provisions of opportunity for prisoner interrogation
- Instruction of troops in the provisions of international agreements and regulations relating to prisoners of war and civilian internees
- Integration of prisoner-of-war activities with other combat service support operations¹¹

While their relative positions differ in these two lists, proper treatment and intelligence exploitation of prisoners are high on both.

In a general statement, and without reference to or detailed elaboration of any specific GPW articles, FM 19-40 implements the provisions of GPW:

In the treatment of PW's and civilian internees, the United States is governed by the Geneva Conventions of 1949 and by the customary law of land warfare. The governing intent of these conventions is to provide for the humane treatment of PW's and the civilian population by the parties to a conflict. The United States has ratified all four conventions and they are legally binding on the Armed Forces of the United States.¹²

The manual carefully delineates the responsibilities of MP and MI personnel during prisoner handling, particularly in regards to intelligence interrogation:

The intelligence interrogation of selected PW's in the combat zone is a responsibility of the intelligence officer who is assisted by IPW (Interrogation Prisoner of War) teams. . . . Military police communicate with PW's only for the purpose of giving those commands and instructions which are necessary for the field processing (exclusive of interrogation) and handling of PW's in the combat zone.¹³

The manual anticipates that military police will make their first contact with EPW at a division collecting point located in the maneuver brigade trains area. Field processing of individual prisoners in the combat zone is normally restricted to that required for security, control, intelligence, and humanitarian considerations. Intelligence interrogation by qualified IPW teams could occur at the division forward or central collecting point. While this field manual envisions the conduct of intelligence interrogations at

every level of EPW enclosure or camp, it does not refer, in the text or in any camp schematics, to a dedicated interrogation facility within or near a camp or enclosure.

Regarding the selection and training of prisoner-of-war camp staff, FM 19-40 recommends high standards in both areas. Personnel are to be carefully selected and trained; they must possess “the highest qualities of leadership and judgment. They are required to observe rigid self-discipline and to maintain a soldierly, impersonal attitude.”¹⁴ “Principles of the Geneva Conventions” is listed first among 13 training subjects for personnel assigned to an internment facility.¹⁵

This field manual is heavy on guidance for security, control, and discipline of prisoners, with many provisions that directly reflect problems encountered at Koje-do and other Korean camps. This includes an entire chapter on the subject of “Riot Control in Internment Camps.”¹⁶

One of the general failures of camp leadership in Korea was the absence or weakness of internal camp intelligence structures. FM 19-40 addresses that issue in a section titled “Intelligence.” The text is careful, however, to separate the intelligence gathered to keep track of the goings on inside the facility, from the intelligence gathered by MI personnel in support of tactical and strategic intelligence goals.¹⁷ The same section acknowledges that MI personnel will be inside the facility to conduct “PW interrogation, counterintelligence, and other intelligence activities,” and are therefore considered primary sources of information of interest to the camp commander.¹⁸ Concomitantly, EPW camp-operating personnel are expected to furnish MI personnel with any information of interest to them.¹⁹

When summarizing the development of EPW doctrine in the interlude between the Korean and Vietnam conflicts, in hindsight one is struck by the lack of a clear policy statement about the treatment and handling of EPW in the principal Department of the Army regulation of the period. This lack of a clear statement is reflected also in the field manuals for the combat arm most likely to encounter the enemy first on the battlefield—the infantry. The field manuals for MP and MI personnel, who are in contact with EPW from the time of evacuation and first interrogation through confinement until repatriation, reflect a greater awareness of the provisions of GPW. Both MP and MI manuals clearly delineate the responsibilities of the two branches: Military police guard prisoners and seek intelligence from them only as it concerns the smooth operation of the confinement

facility; MI personnel interrogate prisoners to gain information of tactical and strategic value. While both branch field manuals presume that interrogations will be conducted inside the confinement facility run by MP personnel, neither field manual describes the physical attributes of such an interrogation facility or its subordination.

Notes

1. See, for example, FM 7-10, *Rifle Company, Infantry, and Airborne Battle Groups*, August 1962; FM 7-15, *Rifle Platoon and Squads: Infantry, Airborne, and Mechanized*, 10 March 1965; FM 7-20, *Infantry, Airborne Infantry, and Mechanized Infantry Battalions*, January 1962 and May 1965.

2. FM 7-11, *Rifle Company: Infantry, Airborne, and Mechanized*, 20 April 1965, paragraph 249.b.(2) on page 239.

3. FM 31-15, *Operations Against Irregular Forces*, 31 May 1961, 2.

4. *Ibid.*, 11.

5. *Ibid.*, 24.

6. FM 31-21, *Guerrilla Warfare and Special Forces Operations*, 29 September 1961, paragraph 6.d.

7. FM 31-22, *US Army Counterinsurgency Forces*, 12 November 1963, Appendix VI, "Guidelines for Advisers and Members of Units," paragraph 2.q.

8. AR 633-50, "Prisoner of War Administration, Employment, and Compensation," 8 August 1963.

9. FM 19-40, *Enemy Prisoners of War and Civilian Internees*, 21 August 1964, paragraph 1.a.

10. *Ibid.*, paragraph 2.

11. *Ibid.*, paragraph 3.

12. *Ibid.*, paragraph 4.a.(1). Recall that the 1952 version of this manual contained an entire paragraph with language paraphrased from six different GPW articles regarding general protection of EPW.

13. *Ibid.*, paragraph 13.f.

14. *Ibid.*, paragraph 13.f.

15. *Ibid.*, paragraph 31.a.

16. *Ibid.*, paragraphs 37-49 of Chapter 3, and Chapter 6.

17. *Ibid.*, paragraph 59.

18. *Ibid.*, paragraph 60.

19. *Ibid.*, paragraph 63.

Chapter 5

The Vietnam War

The Vietnam War is an important intermediate stop in this journey through US Army prisoner-of-war doctrine and experience, but not for obvious reasons. Vietnam is an important case study because it was coalition warfare with and against conventional forces that grew out of, but did not lose the attributes and characteristics of a counterinsurgency. By the late 1960s, the Free World Military Assistance Force (FWMAF), made up of the Republic of Vietnam (RVN), the United States, the Republic of Korea, Australia, Thailand, and the Philippines, was engaged in a protracted war against North Vietnam and its conventional People's Army of Vietnam (PAVN) and unconventional Central Office for South Vietnam (COSVN) forces. In the literature of the period, these forces are often referred to as the North Vietnamese Army (NVA) and the Viet Cong (VC), respectively.

Applying the Geneva Conventions to this war was complicated by many factors.¹ Neither Vietnamese government recognized the legitimacy of the other, nor did the United States recognize the legitimacy of the North Vietnamese government. The Republic of Vietnam did not accord legitimacy to the VC and did not want to recognize captured VC soldiers as belligerents. Neither the United States nor the North Vietnamese governments had issued a declaration of war. The Republic of Vietnam did so in 1965, primarily to increase its domestic legal power and authority.

The US Army did not maintain and administer a network of prisoner-of-war internment facilities in Vietnam like those it had created in Korea more than a decade earlier. In fact, by an early policy decision of the commander of the Military Assistance Command Vietnam (MACV), all individuals captured by American units were transferred to South Vietnamese custody.² But this transfer did not relieve the US government of responsibility for these internees as the "Detaining Power" under Article 12 of GPW. This article reads, in part, "Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee power to apply the Convention."³

While the RVN government was, in fact, a signatory of the Geneva Conventions for the Protection of War Victims of 12 August 1949, for some time it refused to classify VC prisoners as EPW. The Saigon government had long regarded captured VC as political prisoners and held them in civil jails, often without due process. South Vietnamese field commanders and

soldiers had little training in and regard for the provisions of GPW, and routinely maltreated, tortured, and sometimes even murdered prisoners.⁴ The VC dealt with South Vietnamese servicemen in like manner. Because the Republic of Vietnam did not classify captured enemy soldiers as EPW, it did not have any accounting system or organization of the type required by GPW, Article 123.

In this chaotic political and military environment, a series of events transpired in 1965 to force some semblance of order. Marines of the 3d Marine Division came ashore in March of that year and the US Army's 173d Airborne Brigade arrived in May. Two full combat divisions were in place by August 1965. American troop strength in South Vietnam rose from about 24,000 at the end of 1964 to around 184,000 one year later.⁵ On 24 June 1965, the National Liberation Front announced the execution of a US soldier in reprisal for the execution of terrorists by the RVN government.⁶ About six weeks later, on 10 August, Secretary of State Dean Rusk informed the ICRC that the United States would apply all provisions of GPW in Vietnam and expected other parties to do the same. The next day, 11 August, the RVN government informed the ICRC that it would also apply all GPW provisions. On 31 August, North Vietnam informed the ICRC that it would regard captured American pilots as war criminals and try them under North Vietnamese civil law. About a month later, on 26 September, the National Liberation Front announced the reprisal execution of two more American prisoners.⁷ The US government protested this act to the ICRC. On 9 October, the ICRC conference in Vienna adopted a resolution condemning reprisals and called for all sides to apply the GPW.

On 14 October, the Chairman of the Joint Chiefs of Staff, General Earle G. Wheeler, directed his staff to examine the current EPW policy and practices in the Republic of Vietnam and their adequacy with respect to the GPW. A week later, on 22 October 1965, the ICRC informed the US Secretary of State that South Vietnam was not complying with GPW and reserved the right to request US authorities to take all effective measures to remedy the situation. On 30 November, the US Mission in Geneva informed the State Department of South Vietnamese non-compliance with several GPW provisions, to which South Vietnam responded on 3 December with a renewed pledge of compliance.

In sum, the ICRC was prepared to hold the US government responsible under Article 12, GPW for the treatment of prisoners it had turned over to the South Vietnamese. The US government, at the same time, was deeply concerned about the treatment of its own personnel held captive in

South Vietnam by VC forces and in North Vietnam by that government. It could not demand Geneva Convention protection for US military personnel if it could not guarantee the same protection for North Vietnamese and VC prisoners in the custody of the South Vietnamese government. And the number of those prisoners in South Vietnamese civil prisons was growing rapidly, far beyond the capacity of the South Vietnamese government to deal with.

To resolve the problem, in September 1965 the US and South Vietnamese governments established a joint committee to address the many issues related to the Geneva Conventions. Among the initial results of their effort were EPW training cards for soldiers in the field, issued in October 1965, and a program of instruction for all US and Vietnamese military units.⁸ In late November 1965, the Joint Military Committee proposed a plan to apply the Geneva Conventions to all prisoners captured by US, Vietnamese, and Free World forces. The plan envisioned the construction of five EPW camps, one in each corps tactical zone and the fifth in the Saigon area. The camps, built initially to contain 1,000 prisoners each, would be manned by Vietnamese military police with US military police as advisory personnel in each stockade.⁹ The number, size, and population of these camps grew over the years, until by December 1971 the Vietnamese government held 35,665 EPW in six camps. Just under one-third of these had been captured by US forces.¹⁰

A US Army Continental Army Command regulation of June 1965 required commanders to incorporate Geneva Convention training into their training programs.¹¹ Army Regulation (AR) 350-216, dated 19 December 1965, spelled out in much greater detail the requirements for educating and training US Army commissioned and enlisted personnel in the provisions of the Geneva Conventions of 1949.¹² US Army soldiers henceforth, until September 1972, received a minimum of 2 hours of formal Geneva Convention instruction in basic combat training and additional instruction during advanced individual training.¹³ Soldiers coming into country after October 1965 received more Geneva Convention instruction and their personal copy of the training card "The Enemy in Your Hands" during in-processing.¹⁴

The US government was operating in this matter not just based on humanitarian interests. An increasing number of American military personnel were being captured by the enemy and held in less than ideal conditions. RVN compliance with the GPW was an important element in the US government's demand for reciprocal treatment for its personnel in enemy

captivity. And just as it had been during the Korean War, treatment of EPW in the custody of the United States and its South Vietnamese allies was of high interest to the world public.

At the end of January 1966, the South Vietnamese government unilaterally released 24 North Vietnamese EPW coincident with the lunar New Year (Tet). The event was covered by the international press. A week later, on 8 February, President Lyndon B. Johnson and Prime Minister Nguyen Cao Ky issued a joint statement at the conclusion of the Honolulu Conference, that, in part, reaffirmed each nation's commitment to observing the GPW provisions. Around this same time the Joint Chiefs of Staff (JCS) completed their examination of the EPW policy and practices in the Republic of Vietnam. The JCS concluded that the United States must comply with the GPW and maintain pressure on the RVN government through both military and diplomatic channels to do the same. The objectives of this decision were to improve VC and North Vietnamese treatment of US prisoners of war, to maintain and increase support of the South Vietnamese people for their government, and to reduce opportunities for the other side to exploit inhumane prisoner-of-war treatment.¹⁵

The new prisoner-of-war policy was to apply to the forces of the United States, the Republic of Vietnam, and their allies (FWMAF). It covered major aspects of prisoner-of-war treatment, in particular the combined interrogation system, policy coordination, and the inspection function. Custody of all EPW was to remain with the Republic of Vietnam. The JCS directed the Commander in Chief Pacific (CINCPAC) to coordinate and implement the new policy, which essentially stated that those entitled to EPW treatment would receive it, while all others would receive the minimum humanitarian treatment required by Article 3, GPW, irrespective of classification by the RVN government. (See Appendix A for the full text of Article 3.) Furthermore, while the Republic of Vietnam Armed Forces (RVNAF) would retain physical custody of captives taken by US forces, the United States would determine the treatment to be accorded such captives and have inspection authority to ensure the appropriate treatment was rendered.¹⁶

The COMUSMACV, General William C. Westmoreland, issued instructions that implemented the new JCS policy. An early example of these instructions is MACV Directive 381-11, published on 5 March 1966.¹⁷ This directive recognized detainees in four categories:

- Captives: individuals captured while engaging in combat
- Returnees: individuals who voluntarily returned to RVN control

(later called *Chieu Hoi*)

- Very important captives/returnees: captives or returnees of significant intelligence value
- Suspects: collaborators, accomplices, or other persons taken captive when not directly or conclusively shown to be engaging in combat

This directive allows for the implementation of combined exploitation of human and document resources between the governments of Vietnam and the United States. Here is the document's language about treatment of human sources: "Captives, returnees, and suspects will be treated humanely. No violence will be done to their life or person nor will outrages of any kind be committed upon them."¹⁸

The directive also establishes US responsibility under Article 12, GPW, for detainees transferred from US to RVNAF custody. Among the references cited are FM 27-10, *The Law of Land Warfare*, and Department of the Army Pamphlet 27-1, *Treaties Governing Land Warfare*. The first attachment to this directive is a bi-lingual capture tag. Another attachment is a "Detainee Report Form" used to effect transfer of the detainee from US to RVNAF custody.

Much more explicit language is contained in MACV Directive 20-5, published on 17 May 1966, titled "Inspections and Investigations, Prisoners of War – Determination of Status." This directive describes the policies and procedures for determining the status of personnel in the custody of the United States in accordance with Article 5, GPW and for protecting those personnel. It first lists the four Geneva Conventions (GWS, GWS Sea, GPW, and GC) and then declares all of them applicable to the armed conflict in Vietnam. It further ties the responsibility for prisoners turned over to the Vietnamese authorities back to the US government under Article 12, GPW. And it assigns to US forces the responsibility to determine the status of any persons captured before handing them over to RVNAF authorities.

This directive explicitly directs that Article 3 treatment be afforded to any person in custody who was determined ineligible for EPW status.¹⁹ Annex A to this directive contains the text of Articles 3, 4, 5, and 7 of GPW, and Articles 3, 4, 5, and 8 of GC.

General Westmoreland wrote personal letters to all of his major commanders in August 1966, stressing his command interest in proper adherence to international law in the handling of EPW and combat captives. A similar theme is reiterated in a MACV command information bulletin

published in October 1966, titled “Application of the Geneva Prisoner of War Conventions in Vietnam.” This bulletin expresses a key policy: “Prisoner of war treatment was to be extended to all Viet Cong and to all members of regular North Vietnamese units, whether captured in combat or not, as long as they were not criminals, spies, saboteurs, or terrorists.” These named categories of persons were to be given humane treatment and turned over to the Vietnamese government for civil trial. In addressing the steps to be taken immediately upon capture, the bulletin stresses that enemy personnel must be protected from torture, humiliation, degrading treatment, reprisals, or any act of violence. It explains the importance of observing humanitarian principles in waging war, giving specific reasons why it is in the interests of the United States for American troops to treat prisoners humanely.²⁰

During the course of the war, the MACV commander also promulgated and updated several directives requiring prompt reporting of EPW maltreatment, expeditious classification of all captured enemy personnel, and extension to them the full protection of the Geneva Conventions of 12 August 1949, including visits by ICRC delegates.²¹ South Vietnamese government cooperation in ICRC visits was grudging initially, due to the refusal of North Vietnam to provide reciprocal visits and prisoner lists. But under US pressure and with the combining of intelligence interrogation facilities, the South Vietnamese steadily increased access to their camps and the ICRC was able to broaden its reach.

During this same time period, the late summer and fall of 1965, the MACV reached an agreement with the RVNAF to combine its intelligence efforts.²² Among the results of this combined effort were the establishment of the Combined Military Interrogation Center (CMIC), located in Saigon, and smaller combined facilities throughout South Vietnam.²³ In January 1966, the two governments signed a formal agreement that created the Military Intelligence Detachment Exchange Program. Henceforth, South Vietnamese intelligence personnel, including interrogation specialists, would be attached to US corps-level headquarters, divisions, and separate brigades.²⁴

Enemy personnel captured by a US unit in Vietnam were quickly evacuated to a separate brigade or division detention area where tactical interrogation could be accomplished.²⁵ It was the responsibility of the capturing unit to classify a detainee as an EPW, returnee (*Chieu Hoi*), Civil Defendant, or Innocent Civilian, in accordance with MACV Directive 381-46. Persons who had committed a belligerent act (such as terrorism

or sabotage), and whose entitlement to PW status was doubtful, were processed in accordance with MACV Directive 20-5. From the separate US brigade or division facility, captured personnel were passed to the Corps PW Camp.²⁶ At this point, selected EPW could be released to the ARVN Corps CIC (counterintelligence chief) or sent directly to the CMIC in Saigon. Sources (prisoners or detainees) were normally held for exploitation at the CMIC, or a facility below it, for a period of one to seven days, but exceptional cases could be held for up to four months.²⁷

The approval of the Vietnamese Joint General Staff J2 and Assistant Chief of Staff (ACofS), J-2, MACV was required for any source to be held at the CMIC over four months. The MACV directive also required that all interrogations be conducted according to GPW, particularly with regard to the prohibition against maltreatment contained in Article 17.²⁸ A photograph of the CMIC interrogation facility shows rooms with Dutch doors “left open during interrogations to discourage mistreatment of prisoners.”²⁹ Despite regulatory guidance and oversight and purposeful facility design, however, prisoner abuse did occur. This was particularly true in South Vietnamese National Police facilities that were not within easy reach of US officials and where VC prisoners were generally not accorded EPW status.³⁰

The appearance of Article 3 treatment standards in Army field manuals from the Vietnam period is somewhat mixed. FM 31-73, *Adviser Handbook for Counterinsurgency*, published in April 1965, contains a relatively strong paragraph about the treatment of prisoners:

Article 3, common to each of the four 1949 Geneva Conventions, requires that captured insurgents be treated humanely. This article forbids violence to life and person, in particular murder, mutilation, and torture. Likewise, it is forbidden to commit outrages upon personal dignity, to take hostages, and to pass sentence and carry out executions without prior judgment pronounced by a regularly constituted court affording all judicial guarantees recognized as indispensable by civilized people. US forces capturing insurgents are required to observe these rules. Advisers will encourage their counterparts to do likewise.³¹

The text further requires that advisers report prisoner mistreatment to their chain of command.

This particular Article 3 statement precedes by four months the pledge

made by the US government to observe the provisions of the Geneva Conventions in Vietnam. The same standard, however, was not applied in FM 31-16, *Counter guerrilla Operations*, published in March 1967. FM 31-16 distinguishes between guerrilla forces captured behind friendly lines in a limited or general war and those captured in internal defense and development or insurgent wars. The former were generally extended GPW treatment, while the latter were not. The argument supporting the insurgent war policy is strongly reminiscent of the South Vietnamese government's argument against GPW treatment for VC captives:

In insurgent wars, guerrillas generally are not accorded prisoner-of-war status because such status may support their recognition by other nations. . . . Generally, the guerrilla in insurgent wars is considered a violator of municipal law, or a common criminal, and while US forces must accord any prisoners or internees humane treatment by US regulations, care must be exercised to prevent enhancing the status of the guerrilla force to that of a recognized belligerent power.³²

The final draft manuscript of revised and re-titled FM 31-73, *Adviser Handbook for Stability Operations*, circulated in March 1967, states that provisions should be made for handling, accountability, and disposition of insurgents, sympathizers, suspects, and other violators. These provisions were to include detention and interrogation facilities, a recording of the circumstances of capture for later use by intelligence analysts, and referral of prisoners for prosecution or rehabilitation. The sole reference to GPW standards of treatment for detainees is found at the bottom of a long list of tips to the adviser regarding his counterpart relationship. The text strongly urges humane treatment of suspects or prisoners and explicitly states that the minimum standard for such treatment is Article 3, GPW. FM 31-73 further encourages advisers to report any atrocities they know of to their chain of command.³³

A further sign of the shift in policy came with the publication of FM 30-15, *Intelligence Interrogations*, published in July 1967. This manual was revised slightly in March 1969 and again in June 1973. An early paragraph of the 1967 and 1969 manuals rules out the use of force by US Army interrogators, stating that it is unnecessary to gain a subject's cooperation and may induce subjects to fabricate information to end the force being applied.³⁴ The 1973 edition contains an enlarged and expanded "prohibition against use of force" section that conveys both Geneva Convention and

Uniform Code of Military Justice (UCMJ) warnings, and lists “threats of force, violence, and deprivation” as useless interrogation techniques.³⁵ Moreover, the use-of-force section is preceded by cautionary text addressed to commanders, which also contains strong Geneva Convention and UCMJ warnings.³⁶

Additional rationale for the no-use-of-force policy is provided in FM 30-15’s chapter (in all three editions) on tactical interrogation operations, wherein the interrogator is introduced to the Geneva Conventions. According to the text,

[F]orce is neither an acceptable nor effective method of obtaining accurate information. Observation of the Geneva Conventions by the interrogator is not only mandatory but advantageous because there is a chance that our own personnel, when captured, will receive better treatment, and enemy personnel will be more likely to surrender if the word goes out that our treatment of PW is humane and just.³⁷

Of particular note is that this paragraph cites Article 3 of GPW as a standard of treatment. The full text of Article 3 is reproduced in an appendix of FM 30-15.

Article 3 of GPW is cited as the standard for treatment again in Chapter 4, “Interrogation Support of Internal Defense Assistance Operations.” The text affirms that while the legal status of insurgents may not guarantee them Geneva Convention protection when captured by host-nation security forces, US forces will be governed “by existing agreements with the host country and by the provisions of the Geneva Conventions in the treatment of insurgents, specifically by the provisions of Article 3 of the 1949 Geneva Conventions.”³⁸ The 1969 and 1973 editions of FM 30-15 contain significantly more content in this chapter, reflecting the advisory experience accumulated in Vietnam up to that time. In a paragraph titled “Counterpart relationship,” the 1969 edition instructs the US adviser in the following manner:

In cases where the adviser may observe brutal methods in handling and interrogating captives and suspects, he must not participate in these acts, and further should remove himself, and any other US personnel for whom he is responsible, from the scene.³⁹

The 1973 edition contains that same guidance plus the following added text:

Local Theater policies and directives normally assign other special actions for the adviser in a situation of this sort. Such policies and directives may include the responsibility of advising the counterpart of the undesirability of such action, and the reporting of the incident through US channels. The adviser must comply with any such Theater (or other command) policies and directives.⁴⁰

The 1969 and 1973 manuals caution the adviser again, on the following page, when describing the handling of insurgent captives and subjects, using text excerpted and paraphrased from Article 3, GPW and another reference to the full printed text of Article 3 in an appendix to the manual. It urges humane treatment of insurgent captives “far beyond compliance with Article 3, if for no other reason than to render them more susceptible to interrogation.”⁴¹

It is interesting to note that the sections of all three editions (1967, 1969, 1973) devoted to describing the special skills, abilities, and training of interrogators lack any mention of knowledge of or training in law of land warfare or Geneva Convention subjects.⁴²

The 1967, 1969, and 1973 versions of FM 30-15 describe the organization of a field army interrogation center, an administratively and operationally self-sufficient facility located adjacent to or within the PW cage.⁴³ It is supervised by the senior interrogating officer at field army, normally the lieutenant colonel who commands the MI unit assigned to the field army. The officer in charge of the center operates directly under the assistant chief of staff G2, field army, or his representative. Of particular interest to this study is the relationship of MP guard personnel to this interrogation facility:

Interrogators must work closely with the guards at field army cages during the searching, screening, and segregation of prisoners of war. Informed and cooperative guards and MP personnel are essential to the accomplishment of the interrogation mission. Guards operating at cages are employed in the maintenance of discipline during the screening process, the marching of groups to designated areas in the PW cage, and the guarding of groups during their detention at these cages. Appreciation of proper

handling methods by the guards will enhance interrogation by reducing resistance of the prisoner.⁴⁴

All three manuals also encourage the chief of the field army interrogation center to maintain close and harmonious relations with the cage commander. Clearly reflecting the experience of Vietnam, both the 1969 and 1973 manuals use nearly identical text to describe the operation of a combined interrogation facility.⁴⁵ New to the 1973 manual is that it encourages the interrogator to question guard personnel during the preparatory phase of an interrogation. The guard is considered an important information source regarding circumstances of capture, treatment since capture, attitude, and behavior of the prisoner.⁴⁶

Finally, while the 1967 and 1969 editions of the manual offer the full text of Article 3, GPW in an appendix, the 1973 edition also contains the text of GPW Articles 2, 4, and 17, and Article 31 (Prohibition of Coercion) from the Geneva Convention Relating to Civilians.

The doctrinal shift to Article 3 level of treatment for insurgent detainees is further indicated by two field manuals published in December of 1967: FM 31-23, *Stability Operations-U.S. Army Doctrine* and the revised FM 19-40, *Enemy Prisoners of War and Civilian Internees*.⁴⁷ The section of FM 31-23 that defines the legal status of insurgencies and insurgents delineates between those guerrillas who meet the criteria for and are accorded belligerent (prisoner-of-war) status and those who do not. Acknowledging that insurgents usually do not meet the criteria for belligerent status, the manual uses text excerpted from Article 3, GPW to establish a minimum standard of treatment for insurgents. FM 31-23 further stresses the importance of a host country abiding by “certain minimum standards such as those cited in the preceding paragraph [Article 3 GPW language].”⁴⁸

The December 1967 version of FM 19-40, *Prisoners of War and Civilian Internees*, differs from its 1964 antecedent in only one important area—it contains a chapter titled “Stability Operations.” The text of this chapter that describes the legal status of insurgencies and insurgents is almost a verbatim copy of what appears in FM 31-23, as just cited here. This field manual contains two inserted additional sentences that prescribe the conduct of US Army advisers:

U.S. advisers to the HC [host country] should advise and train their HC counterpart in the humane treatment of captured insurgents. Further, advisers must not become involved in inhumane acts and should explain that they

will report such acts to their superiors.⁴⁹

It is thus quite clear from the doctrinal publications issued in 1967 and later that Article 3, GPW had become the US government's minimum standard of treatment to be rendered to insurgents.

The COMUSMACV and his staff struggled mightily through the remaining years of the Vietnam War to make the South Vietnamese government and armed forces comply with GPW. With American material assistance, the South Vietnamese government built new camps open to ICRC inspection. In-camp education, vocational training, employment, recreation, and medical treatment programs were initiated. Procedures were implemented for screening South Vietnamese civil jails to reclassify many inmates as EPW and transfer them to EPW camps. The South Vietnamese government developed and adopted more effective EPW accounting policies and, on occasion, unilaterally released limited numbers of VC and North Vietnamese prisoners. In sum, the US government, by continuous, strenuous effort and overwatch, reached full compliance with Article 12, GPW regarding GPW-compliant treatment of detainees transferred to another power.

Thus far, this study has emphasized the success of the US government, despite its encountered difficulties, in defining a standard of treatment to be rendered to EPW in Vietnam and in holding itself and its allies to that standard. The study conducted by direction of the US Army Chief of Staff (CSA), General Harold K. Johnson, the results of which were released in classified format in 1968, also identifies a number of problems encountered in the US prisoner-of-war program in Vietnam.⁵⁰ At the tactical level, these included first identification and then classification of enemy personnel, who frequently wore non-standard uniform items or no uniforms at all. As in Korea, language nuances in pronouncing, translating, and spelling names complicated administrative processing of detainees. While procedures were developed and followed for classification of detainees in Vietnam, it was never an easy task. American commanders, who were required by MACV directive to classify prisoners before they were turned over to the South Vietnamese government, were given great latitude and encouraged to err on the side of EPW status, which would ensure more humane treatment. The pressure to go in this direction was always present, in the hope that better treatment of enemy detainees would help improve enemy treatment of American prisoners.

The classification of detainees in Vietnam was problematic in that

extant doctrine considered classification to be the sorting of prisoners into the categories of officer, non-commissioned officer, private soldier, female, and so on. This, in fact, was “segregation” or “categorization” rather than “classification.” The doctrine assumed that everyone who came through the front door was a bona fide EPW, while the experience of the Vietnam War proved just the opposite. The United States and its allies had to develop policies and procedures that went beyond the simplicity of Article 4, GPW. The policy finally arrived at regarded all detainees as EPW until final classification was determined by an interrogation or military tribunal. This policy did not conflict with US Army doctrine, which permitted the granting of EPW status to persons who would otherwise be subject to less favorable treatment.⁵¹ The MACV did, in fact, promulgate a directive (MACV Directive 20-5) that governed the conduct of an Article 5, GPW military tribunal to determine the EPW status of a detainee.

Evacuating prisoners from the site of capture, in doctrine of that period normally accomplished by marching or ground (truck and rail) transportation, in Vietnam was primarily accomplished by helicopter. Capture sites were frequently far removed from a road network that was itself too often unsecured or known to be controlled by enemy forces. Such an evacuation system could not function in the event of large-scale captures or surrenders such as occurred in World War II or Korea.

Two problems emerged in the area of medical evacuation and treatment. The first was that on numerous occasions, a wounded detainee died while being evacuated to a medical treatment facility or died at the facility without regaining consciousness, before identification or classification could be accomplished. The hospital issued a death certificate bearing a numerical identity in lieu of a name, and the remains were turned over to a South Vietnamese province chief.⁵² The second problem was organizational, in that the typical US Army field evacuation hospital in Vietnam was made up of several wards, each for treatment of a single type of wound or condition. Detainees or prisoners undergoing treatment could be scattered about the facility in several locations, each one requiring an MP guard. The South Vietnamese government and armed forces did not have any hospital wards for long-term treatment of detainees, requiring that these patients remain in the US military medical system for long periods of time. This also caused considerable expenditure of MP guard resources. Some relief came in 1968 when wards in three US military hospitals (at Qui Nhon, Long Binh, and Da Nang) were designated for long-term detainee patients.⁵³

At the national policy level, the 1968 CSA study identified “world-wide

publicity” as a major issue of concern. While “adherence to the humanitarian concepts of the Geneva Conventions” had long been a policy of the US government, US soldiers in Vietnam were being accused of atrocities against enemy prisoners. Although there was no evidence that such occurrences were more frequent than in past wars, and in fact may have been less frequent, the adverse impact of such accusations was multiplied by the “vastly expanded world communications media.” The study concludes the discussion of this specific issue with this revealing comment:

Strangely enough, and despite a wealth of uncontested and favorable documentation, the US Armed Forces PW program continues to draw more world criticism of its conduct in RVN than does the enemy’s PW program. This same condition pertained during the Korean War, and it is logical to assume that it would pertain in any future conflicts with Asiatic Communist opponents.⁵⁴

At the back of the 1968 CSA study are 39 recommendations extracted for special attention.⁵⁵ (These recommendations can be found in Appendix B.) While those that pertain to matters involving US personnel in captivity are not germane to this present study, many of the other recommendations are, particularly when viewed through the prism of doctrine, organization, training, materiel, leader development, personnel, and facilities (DOT-MLPF). These recommendations are:

- No. 7. That experienced troops be ready to perform the mission of guarding and interning EPW.
- No. 8. That prior planning be continually accomplished with respect to the internment of PW.
- No. 10. That the operational aspects of the PW program in the RVN be handled by an operational headquarters rather than a policy-making headquarters.
- No. 12. That TPMG [The Provost Marshal General] continue to have staff responsibility for the Army with respect to EPW activities and that he be given staff responsibility for the Army with respect to USPW activities.
- No. 13. That the US government keep the public well informed regarding the operation of the PW program so that their support will enhance the US position.
- No. 14. That the term “classification” as utilized in the RVN and the definition thereof be adopted as US doctrine.

- No. 15. That the term “categorization” be substituted for the term “classification” in current doctrine wherever it refers to the grouping of individuals who have already been designated PW.

- No. 28. That training at troop unit level be a subject of annual general inspections to ensure that personnel are receiving the necessary instruction in PW subjects.

- No. 29. That all personnel in the US Army be made aware of the importance of PW subjects through Command Information Programs.

- No. 34. That the active MP PW units be given a higher priority with respect to their readiness posture.

- No. 35. That the reserve and national guard MP PW units be granted a higher state of readiness so that they will not require as much preparation once they have been called to active duty.

Of all the lessons learned in Vietnam about the treatment of EPW, two are especially relevant to this study. The first is that early after the large-scale commitment of US forces to Vietnam, Article 3, GPW treatment was mandated for every detainee irrespective of EPW status or classification. That standard of treatment was first required by a directive of the Chairman of the Joint Chiefs of Staff issued in February 1966, and subsequently implemented by field commanders through MACV directives. It took about 15 calendar months for that directive to be reflected in US Army doctrinal publications. The second lesson is that in the Vietnam War, just as in the Korean War, world public opinion continued to judge the US government about how well it adhered to the long-held principle of humane treatment of captives and detainees without reciprocal ethical enemy treatment of US prisoners in their custody.

Notes

1. See George S. Prugh, *Law at War: Vietnam 1964-1973* (Washington, DC.: Department of the Army, 1973), Chapter IV., “Prisoners of War and War Crimes” for a more lawyerly and detailed examination of the issue’s legal perspective.
2. Jeffrey J. Clarke, *Advice and Support: The Final Years, 1965-1973* (Washington, DC: Center of Military History, 1988), 119.
3. FM 27-1, *Treaties Governing Land Warfare*, December 1956, 72.
4. Clarke, 118.
5. Ibid, 109.
6. The chronology that follows was taken from *A Review of United States Policy on Treatment of Prisoners of War*, III-37-8 and III-124-49.
7. These two prisoners were US Army Captain Humbert R. Versace and Master Sergeant Kenneth M. Roraback. See Neil Sheehan, “Reds’ Execution of 2 Americans Assailed by US,” *New York Times*, September 28 1965, sec. A1. Versace was posthumously awarded the Medal of Honor by President George W. Bush on 8 July 2002.
8. A facsimile of this card, dated 21 August 1965, is shown in Prugh’s book, Appendix H. It is in English and Vietnamese but directed primarily at members of the US forces.
9. These advisory detachments had the additional mission of ensuring that provisions of GPW were observed in the operation of these camps. *A Review of United States Policy on Treatment of Prisoners of War*, III-135.
10. Prugh, 67.
11. Ibid., 74-5. CONARC was the predecessor to Training and Doctrine Command (TRADOC).
12. Ibid., 74. Prugh references this regulation without giving its title. Subsequent versions (28 September 1967, 28 May 1970, 25 July 1972, 25 September 1973, and 11 December 1973) were all titled “Training: The Geneva Conventions of 1949 and Hague Convention No. IV of 1907.”
13. The 2-hour training standard remained through the 1970 version of the regulation but was dropped in the July 1972 version. The regulation also was applied to schools and institutions not under the Continental Army Command, such as the Army War College, United States Military Academy, and so on.
14. Prugh, 75.
15. *A Review of United States Policy on Treatment of Prisoners of War*, III-132.
16. Ibid., III-133.

17. The complete title of this directive is “Military Intelligence. Intelligence Procedures for Handling, Processing, and Exploitation of Captives, Returnees, Suspects, and Documents.”

18. MACV Directive 381-11, 5 March 1966, paragraph 5.a.(6). This directive was revised on 4 May 1967 and 5 August 1968.

19. MACV Directive 20-5, 17 May 1966, “Inspections and Investigations, Prisoners of War – Determination of Status,” paragraph 4.a.(2) and 4.b.(5).

20. Prugh describes this bulletin in some detail in pages 75-6.

21. MACV Directive 20-4, “Inspections and Investigations, War Crimes,” 20 April 1965; MACV Directive 20-5, “Inspections and Investigations: Prisoners of War—Determination of Eligibility,” 17 May 1966; MACV Directive 190-3, “Military Police: Enemy Prisoners of War,” 6 April 1967; and MACV Directive 190-6, “Military Police: ICRC Inspections of Detainee/Prisoner of War Facilities,” 8 January 1969. The latter authorized the ICRC to inspect all detainee/PW facilities in the Republic of Vietnam.

22. The J-2 of MACV, Major General Joseph A. McChristian, arrived in country on 29 June 1965 and reached agreement with the J-2 of the South Vietnamese Armed Forces to “engage in combined intelligence activities whenever practicable” during his first office call with his South Vietnamese counterpart, Colonel Ho Van Loi. See McChristian, *Vietnam Studies: The Role of Military Intelligence 1965-1967* (Washington, DC: Department of the Army, 1974), 11. *A Review of the United States Policy on Treatment of Prisoners of War*, III-127, states that the agreement for establishing the combined military interrogation system was negotiated on 27 September 1965.

23. McChristian, 16, 22. The functioning of the CMIC is described in pages 26-32.

24. Ibid., 24.

25. The procedures outlined below are from MACV Directive 381-11, “Military Intelligence Exploitation of Human Sources and Captured Documents,” 5 August 1968, extracted in Prugh, Appendix D.

26. Corps camps were located at Da Nang in I Corps, Pleiku in II Corps, Bien Hoa in III Corps, and Can Tho in IV Corps. See map in Prugh, Appendix D.

27. MACV Directive 381-11 specifies 7 days for the CMIC. The stipulation for facilities below the CMIC is from McChristian, 29.

28. The 4 May 1967 version of MACV Directive 381-11 does not reflect this requirement but does contain definitions of detainees, EPW, regroupées, returnees, doubtful cases, civil defendants, and very important sources. Saboteurs and terrorists are deemed to be civil defendants.

29. McChristian, 35.

30. Ibid., 30-1.

31. FM 31-73, *Adviser Handbook for Counterinsurgency*, 23 April 1965, paragraph 36.a., pages 66-67.

32. FM 31-16, *Counterguerrilla Operations*, 24 March 1967, paragraphs 249.a. and b. This manual originated with the Infantry School at Fort Benning, Georgia.

33. Final Draft Manuscript, FM 31-73, *Adviser Handbook for Stability Operations*, March 1967, paragraph 39.d.(20), pages 43-44. This manual originated with the Combat Developments Command of the Special Warfare Agency at Fort Bragg, North Carolina. The final version, published under the same title on 18 October 1967, contains the same text in the same paragraph on pages 53-54.

34. FM 30-15, *Intelligence Interrogations*, 27 July 1967, paragraph 8, page 5; FM 30-15, *Intelligence Interrogation* (Washington, DC: Government Printing Office, 7 March 1969), paragraph 1-8, page 1-3.

35. FM 30-15, *Intelligence Interrogation* (Washington, DC: Government Printing Office, 1 June 1973), paragraph 1-8, pages 3-4.

36. Ibid., 1973, paragraph 1-3.a., pages 1-2.

37. FM 30-15, 1967, paragraph 39, pages 35-36; 1969, paragraph 3-2, pages 3-1-2; 1973, paragraph 3-2, pages 31-32.

38. FM 30-15, 1967, paragraph 66.a., page 62; 1969, paragraph 4-2.a, page 4-1.

39. FM 30-15, 1969, paragraph 4-6.c.(3), page 4-3.

40. FM 30-15, 1973, paragraph 4-6.c.(3), page 58.

41. FM 30-15, 1969, paragraph 4-8.a and b., page 4-4; 1973, paragraph 4-8, page 59.

42. FM 30-15, 1967, paragraphs 12 and 13 on pages 7-8; FM 30-15, 1969, paragraphs 1-12 and 1-13, pages 1-5, 1-6; FM 30-15, 1973, paragraphs 1-12 and 1-13, pages 5-6.

43. FM 30-15, 1967, Chapter 3, Section 5, page 51; 1969, Chapter 3, Section V, page 3-17; 1973, Chapter 3, Section VI, page 55.

44. FM 30-15, 1967, paragraph 55.a., page 52; 1969, paragraph 3-17.a, pages 3-17-18; 1973, paragraph 3-25.a., page 55. The 1973 edition uses the word “detainee” at the end of the quotation in lieu of “prisoner.”

45. FM 30-15, 1969, Chapter 4, Section V, page 4-7; 1973, Chapter 4, Section V, page 62. The only difference in the text is that the 1973 version includes a polygraphing branch in the functional composition of the center.

46. FM 30-15, 1973, paragraph 2-4.b.(4)(g), page 12.

47. FM 31-23, *Stability Operations-U.S. Army Doctrine*, 8 December 1967; FM 19-40, *Enemy Prisoners of War and Civilian Internees*, 11 December 1967.

48. FM 31-23, 1967, paragraph 27. *Treatment of Prisoners*, page 22.

49. FM 19-40, 1967, paragraph 8-3. *Treatment of Prisoners*, page 8-2.

50. *A Review of the United States Policy on Treatment of Prisoners of War*, VI-29-45.

51. FM 27-10, 1956, paragraph 70, page 30.

52. When collecting materials for this study in early summer 2004, I had occasion to speak with a staff worker at the National Archives and Records Administration. He had spent the past two weeks with a representative of the Vietnam government, searching US military hospital records of the Vietnam era for records of deaths of North Vietnamese soldiers, in an effort to clear their names from missing rolls.

53. *A Review of the United States Policy on Treatment of Prisoners of War*, VI-37.

54. *Ibid.*, VI-43.

55. *Ibid.*, VI-156-64.

Chapter 6

Post-Vietnam Interlude

A new edition of Field Manual 19-40, *Enemy Prisoners of War, Civilian Internees, and Detained Persons*, was published in February 1976, three years after the signing of the Paris Peace Accords that effectively ended US involvement in the Vietnam War. In reviewing this manual, one is struck by several of the changes from its previous 1967 edition. The first of these is a total recasting of the objectives of the Enemy PW/Detainee Program. The 1967 version lists five objectives, in order: intelligence acquisition, escape prevention, promotion of proper enemy treatment of USPW, weakening of enemy will to resist capture, and maximum use of EPWs as a labor source.¹ In 1976 these five are replaced by three, in order: implementation of Geneva Conventions, humane and efficient care of detainees with full accountability, and “appropriate support of the military objectives of the United States.”² While the objectives changed markedly, the principles by which these were to be achieved still remain unchanged.

The US Army remains the service responsible for the DoD Enemy PW/Detainee Program, and within the Army the Deputy Chief of Staff for Personnel (DCSPER) has primary staff responsibility. Command responsibility belongs to the Theater Army commander and thence to the Theater Army Support Command (TASCOM) in a theater of operations. In the COMMZ, responsibility for all EPW matters is charged to an MP prisoner of war brigade.

The new FM 19-40 contains significantly more Geneva Conventions content than its predecessor, including summary explanations of all four conventions and a general protection statement that includes material taken from several specific articles of GPW. The text contains the following statement of US Policy, printed in italicized font for emphasis:

Basic United States policy underlying the treatment accorded PW and all other enemy personnel captured, interned, or otherwise held in United States Army custody during the course of a conflict requires and directs that all such personnel be accorded humanitarian care and treatment from the moment of custody until final release or repatriation. The observance of this policy is fully and equally binding upon United States personnel whether capturing troops, custodial personnel, or in whatever other

capacity they may be serving. This policy is equally applicable for the protection of all detained or interned personnel whether their status is that of prisoner of war, civilian internee, or any other category. It is applicable whether they are known to have or are suspected of having, committed serious offenses which could be characterized as a war crime. The punishment of such persons is administered by due process of law and under legally constituted authority. The administration of inhumane treatment, even if committed under stress of combat and with deep provocation, is a serious and punishable violation under national law, international law, and the Uniform Code of Military Justice.³

On the same page and the one that follows, one finds with this strongly worded policy statement a facsimile of a PW treatment card, containing text remarkably similar to that printed on the card issued to US Army soldiers in Vietnam in the fall of 1965. In one of several GPW warnings planted throughout the manual, a section on treatment of detainees reminds readers that “all PW are accorded humane treatment and are to be protected, particularly against acts of violence or intimidation and against insults and public curiosity.”⁴

In a section prescribing general principles and procedures for handling EPW in the combat zone, the 1967 manual’s warnings that “fraternization, mistreatment, or abuse by capturing troops or escort guards . . . makes the task of interrogators more difficult” and “troops never furnish goods or comfort items to prisoners prior to their first interrogation. . . . Interrogators can do much toward gaining the confidence of prisoners if they are the first to offer these items” have been removed.⁵ Gone also is the text that in the 1967 manual described the role of guard personnel to observe prisoners and report to interrogator personnel, and the role of MI interrogators to assist the MP commander with camp-specific intelligence.⁶ The 1976 manual also lacks the reference to camp-operating-personnel support for external intelligence agencies found in the 1967 manual.⁷ These are further indications of the reduced emphasis in the new manual on the intelligence value of EPW and the intelligence role of MP troops. All the discussion of intelligence-gathering activity in the new manual is related to camp-specific intelligence that would assist the camp commander in maintaining order and security.

According to the 1976 manual, the first encounter of military police

with EPW is still expected to occur at brigade collecting points. The schematic that shows EPW evacuation channels has been greatly simplified, with all references to interrogation and counterintelligence interrogation team activities at tactical and higher levels removed.⁸ But while these graphic references to interrogation teams have been removed, textual references remain for intelligence interrogation at the division forward and central collecting points and at corps-level EPW holding areas. The new manual contains significantly more guidance on the site selection and construction of EPW camps, with reference to specific Army technical manuals for construction and material specifications.

The issue of classification, which caused great consternation in Vietnam, is addressed in two places in the new manual. In the section on camp administration, “classification” appears to refer to the status of a detainee—PW, CI, or other interned person. The initial formal classification is accomplished at the time of PW processing, but the manual does not state by whom this classification is conducted.⁹ In another chapter of the manual, “Enemy Detained Personnel in Internal Defense and Development Operations,” the responsibility for classification of detainees is delegated to “capturing troops in the absence of assigned or attached military intelligence personnel” below brigade level, and to assigned MI personnel at brigade and division level.¹⁰ This manual introduces the EPW identification band that strongly resembles a hospital wristband in function and appearance.

The influence of the Vietnam War is clearly seen in the chapter on internal defense and development operations (chapter 4 in the 1976 version). Much less text is used to define “insurgents” and more text is devoted to prescribing the appropriate level of GPW treatment to be given them upon capture. This chapter contains an almost verbatim restatement of the basic policy of the United States that appears at the front of the manual (and is quoted in full above), along with a brief explanation of the responsibility of the United States under Article 12, GPW when transferring custody of detainees to the host country.¹¹ This chapter contains two references to the tribunal required by Article 5, GPW for determination of detainee status.¹² Interestingly, the paragraph that describes the duties of MP advisory personnel to the host country contains not a single mention of the Geneva Conventions except in reference to the processing advisory team, whose duties are largely in the areas of record keeping, identification, and proper accountability.

Chapter 6, “Military Police Prisoner of War Units,” is much enlarged,

containing TOE information on several small and large MP organizations. MP working dogs are mentioned in two places in the field manual, both only in the context of security duty or track and capture of escaped detainees.¹³

In briefly analyzing this field manual, one is struck by the significant increase in emphasis on humane treatment of detainees, with a strong statement of US policy in two separate places, and at the same time a marked decrease in discussion of the interaction between MP and MI personnel. The manual does acknowledge that MI interrogation teams will be working in and around detainees at various facilities and locations. But it never describes in any detail the relationships—command, support, or otherwise—between units of the two branches.

MI interrogation doctrine in the post-Vietnam era is defined by yet another edition of FM 30-15, *Intelligence Interrogation*, which appeared in September 1978. This manual contains the same strong Geneva Convention and UCMJ warnings in its opening pages as its predecessor, along with the same text in the section titled “prohibition against use of force.”¹⁴ A brief paragraph on interrogator training places Geneva Conventions and the law of land warfare at the top of the training subject list.¹⁵ The role of guards in the interrogation process is stressed, using language taken directly from the 1973 edition.¹⁶

The text that describes the Geneva Conventions in Chapter 3, “Interrogation Operations,” is also the same as in the previous version of the manual. The corps interrogation center had replaced the field army interrogation center in MI doctrine by 1978. The relationships of MP guards to interrogators and the chief of the corps interrogation center to the corps holding area is described using the same text in the new manual.¹⁷

Chapter 4 of the new manual, renamed “Interrogation Support of Internal Defense and Development Operations” (versus “stability operations” in the previous version), defines the legal status of insurgents using the same language that governs the action of US forces by Article 3, GPW.¹⁸ US advisers are given the same admonition to remove themselves and their subordinates from any scene of brutal handling of insurgent detainees by host country personnel, and to take other actions as required by theater or command policies and directives.¹⁹ Likewise, in the section titled “Handling of Insurgent Captives and Suspects,” the text urges treatment of insurgent captives “far beyond compliance with Article 3.”²⁰ The description of the combined interrogation facility is the same as in the previous

edition of the field manual. The Geneva Conventions appendix to the 1973 manual contains the same extracted material as its predecessor. Despite significant organizational changes in the MI branch in the early post-Vietnam era, intelligence interrogation doctrine in respect to the Geneva Conventions changed little, if at all.

A close reading of both MP and MI interrogation manuals of this period reveals growing awareness of and adherence to Article 3, GPW treatment for all detainees. Less obvious, but still detectable, is a sense that MI doctrine writers felt comfortable placing interrogation units and personnel within and around EPW holding facilities, and equally comfortable describing the attitudes and responsibilities of military police toward both detainees and interrogators. The FM 30-15 series of field manuals at least encourage the intelligence interrogation unit commander to establish a good working relationship with the MP cage commander.

That same degree of comfort is not observable in MP field manuals. Examination of the 1976 version of FM 19-40 reveals that the role of MI interrogators in classifying and interrogating EPW and detainees is acknowledged, both at brigade and division collecting points and at corps or field army cages. But this field manual does not ascribe to military police any interactive roles with prisoners/detainees for tactical intelligence activity. Nor does it make any detailed provision for accommodation of MI interrogators in its graphic or textual descriptions of EPW holding cages or camps. Everyone knows that where EPW are, intelligence interrogators will also be. FM 19-40 does not address how MI interrogators will gain access to the prisoners once caged, where interrogations will be conducted, what the command relationship will be between MP units and MI interrogation units, and what relationship, if any, MP guards will have to MI interrogators. In sum, MP doctrine in the post-Vietnam period, while growing stronger in Geneva Convention content, at the same time is losing sight of the presence of MI interrogators in MP-run facilities.

The Department of the Army released a new regulation pertaining to EPW in July 1982, AR 190-8, "Enemy Prisoners of War Administration, Employment, and Compensation." As before, the Army remains the DoD executive agent for the DoD Enemy Prisoner of War and Detainee Program, and the DCSPER retains primary staff responsibility within the Army. For the first time since the signing of the Geneva Conventions on 12 August 1949, the AR governing this area contains a statement of a general protection policy for EPW and other persons. This statement, several paragraphs in length, paraphrases Article 3, GPW and contains text excerpted

and paraphrased from Articles 5, 13, 14, 17, and other GPW articles. The general protection policy paragraph also invokes national law and the UCMJ for punishment of violators.²¹ Regarding the policy of the treatment and handling of EPW and other detainees, in 1982 the AR caught up with, but did not expand, existing doctrine.

Notes

1. FM 19-40, *Enemy Prisoners of War, Civilian Internees, and Detained Persons*, 1967, paragraph 1-2, page 1-1.
2. FM 19-40, 27 February 1976, paragraph 1-3, page 1-2.
3. Ibid., paragraph 1-14, pages 1-5, -6.
4. Ibid., 1976, paragraph 3-25 on page 3-11.
5. FM 19-40, 1967, paragraph 2-2, page 2-1; FM 19-40, 1976, paragraph 2-1, page 2-1.
6. FM 19-40, 1967, paragraph 2-4, page 2-2; FM 19-40, 1976, paragraph 2-2.b.(6)(a), page 2-2; FM 19-40, 1967, paragraph 3-31 on page 3-12; and FM 19-40, 1976, paragraph 3-62 on page 3-18.
7. FM 19-40, 1967, paragraph 3-36 on page 3-13.
8. This is figure 2-1 in both manuals, on page 2-4 of 1967 version and 2-3 of 1976 version.
9. FM 19-40, 1976, paragraph 3-16 on page 3-8.
10. Ibid., paragraph 4-6 on page 4-3.
11. Ibid., paragraph 4-4 on page 4-2.
12. Ibid., 1976, paragraphs 4-6.d. on page 4-3 and 4-9.d on page 4-4.
13. Ibid., paragraphs 3-12 on page 3-7 and 3-69 on page 3-20.
14. FM 30-15, *Intelligence Interrogation*, 29 September 1978, paragraphs 1-2 and 1-3, pages 1-1 and 1-2; section 1-8 on page 1-6.
15. Ibid., paragraph 1-13, page 1-11.
16. Ibid., paragraph 2-4, page 2-5.
17. Ibid., paragraph 3-35, page 3-43.
18. Ibid., paragraph 4-2 on page 4-2.
19. Ibid., paragraph 4-6 on page 4-5.
20. Ibid., paragraph 4-8 on page 4-7.
21. AR 190-8, "Enemy Prisoners of War Administration, Employment, and Compensation," 1 July 1982, paragraph 1-5.

Chapter 7

Grenada and Panama

Operation URGENT FURY

The US Army had two opportunities to exercise its EPW doctrine in the 1980s—Operation URGENT FURY in Grenada in October-November 1983, and Operation JUST CAUSE in Panama in December 1989-January 1990. While both operations were of relatively short duration, they involved the capture, detention, and repatriation of combatants and other detainees.

Because the operational planning for Operation URGENT FURY did not really begin until after the issuance of a Joint Chiefs of Staff (JCS) warning order late on 19 October, consideration for EPW issues was not a high priority.¹ Planners at the JCS level estimated there were approximately 600 Cubans on the island (250 armed), along with 1,000 to 1,200 People's Revolutionary Army (PRA) regulars and 2,000 to 5,000 militiamen.² On 24 October, the day before the launching of the operation, Major General George Crist, USMC, senior US liaison officer to the commander of the 300-man Caribbean Peacekeeping Force (CPF), met with his counterpart in Bridgetown, Barbados to coordinate that force's contribution to the operation. Among the missions discussed was the duty of guarding prisoners captured by US forces.³

The first EPW taken in Operation URGENT FURY were 12 Cuban air crewmen captured by marines at Pearls Airport on the east shore of the island at dawn on 25 October.⁴ A short time later, in the villages of Pearls and Grenville, the same marines took into custody members of the militia and PRA identified to them by local civilians. On the southern end of the island, at the Point Salines airfield, soldiers of the 1st and 2d Battalions of 75th Ranger Regiment conducted a parachute assault from 0534 to 0700, and by 0730 were engaging armed Cuban construction workers in hasty defensive positions around the Cubans' old camp near the airfield. By mid-morning, this combined Ranger force had captured and was guarding a modest number of Cuban combatants.

When the CPF landed at Point Salines Airport by C-130 in late morning, confusion existed over its immediate subordination and mission.⁵ At this time, the CPF acquired responsibility on the ground for the Cuban EPW from the Rangers. The CPF set up a temporary enclosure in the Cuban construction camp several hundred meters north of the airfield and by nightfall had approximately 250 captives, including perhaps a dozen PRA soldiers. Among the Cuban captives were medical personnel, including

both doctors and nurses, able to provide limited treatment to wounded Cuban construction workers. With assistance from a local policeman, the CPF organized accommodations and found food for these prisoners.

When the 2d Battalion (Airborne), 325th Infantry Regiment, 82d Airborne Division landed by C-141 at Point Salines at 1400 on 25 October, it was accompanied by three MP squads from the 2d Platoon, 82d MP Company.⁶ The 2d Squad was immediately assigned the duty of assisting the CPF in collecting, holding, and processing detainees at the EPW camp. The MPs of 82d MP Company quickly discovered that the CPF was neither equipped nor trained to handle EPW in accordance with Geneva Convention requirements. The EPW had not been properly processed; the camp was poorly situated, with inadequate security and sanitation facilities. The MP platoon leader from Fort Bragg could recommend corrective actions but did not have the authority to implement them.⁷

Paratroopers of 2d Battalion, 325th Airborne Regiment, 82d Airborne Division captured another modest lot of Cuban prisoners, about 70 in all, on the morning of 26 October in the taking of the Cubans' military headquarters about 1,000 meters north of the airfield. On the afternoon of 26 October, the 82d Airborne Division assumed responsibility from the CPF for all prisoners at the Point Salines airfield.⁸ More prisoners were captured by the marines in St. George on 27 October. The commander of this force, 2/8 Battalion Landing Team of the 22d Marine Amphibious Unit, had brought ashore his H Battery without its artillery pieces as a provisional infantry unit and used it to guard prisoners captured in and around the city. These marines established a detention center at the Queen's Park racecourse just north of the city, which by the end of the day contained a substantial number of detainees.⁹

It was also on 27 October that the JCS began to be concerned about the growing prisoner/detainee population. Aware that the care and feeding of prisoners and detainees was an encumbrance to the combat units of the 82d Airborne Division, early on 27 October the JCS directed Admiral Wesley L. McDonald to evacuate the Cuban prisoners and Soviet noncombatants also in protective custody as soon as possible. Later that day, the JCS modified its instructions and agreed that while the wounded Cubans should be repatriated as soon as possible, the remainder should be interrogated first.¹⁰

The 82d Airborne Division's acting provost marshal and the 118th MP Company (Airborne) from XVIII Airborne Corps arrived in Grenada on 27 October and assumed responsibility from divisional combat units for

operating the detention facility at Point Salines airfield on 28 October.¹¹ Also on that day, joint staff officers in Washington recommended to the Chairman of the JCS, General John Vessey, that the Cuban prisoners be segregated according to rank, hoping that the subsequent interrogation of segregated prisoners would yield more information on Cuban order-of-battle on the island. The joint staff also recommended that prisoners be screened by medical experts to preclude future charges of torture, and that reporters be allowed to interview the prisoners.¹²

Segregating prisoners was problematic for two reasons: They wore no rank and had no identifiable rank structure among themselves, and both marines and soldiers had neglected to tag large numbers of prisoners upon capture. Classifying and accounting for prisoners was subsequently accomplished with the assistance of personnel from the 519th Military Intelligence Battalion, 525th Military Intelligence Brigade, and a civil affairs unit.¹³

The marines captured more PRA soldiers in St. George on 29 October, and on Sunday, 30 October, paratroopers from the 2d Battalion, 505th Parachute Infantry Regiment captured the fugitive leaders of the People's Revolutionary Council—General Hudson Austin, Lieutenant Colonel Ewart Layne, and Lieutenant Colonel Liam James. These three “high-value” prisoners were taken by truck and helicopter to a brig aboard the USS Guam.¹⁴

Two other events occurred on 30 October concerning the prisoners and detainees, one of a practical nature and the other of a political nature. On that day, General Vessey conferred with Admiral McDonald (Commander, Joint Task Force 120) and Major General Edward Trobaugh (Commander, 82d Airborne Division) on McDonald's flagship, the USS Guam. At the conclusion of this conference the party flew to Point Salines airfield where the heaviest fighting had occurred. General Vessey, upon seeing Cuban prisoners held in the hot sun on a macadam pad surrounded by barbed wire, ordered McDonald and Trobaugh to put the prisoners under shade immediately and ensure they received humane treatment.¹⁵

The other development on that day was an exchange of views between Lieutenant General Fred Mahaffey, the US Army Deputy Chief of Staff for Operations, and the other services' operations deputies about the classification of the prisoners. Mahaffey, speaking as the DoD's executive agent for the EPW program, urged that captured Cubans all be reclassified as “prisoners of war” vice “personnel under protective custody.” After some discussion, the other operations deputies decided to retain the “personnel

under protective custody” classification to avoid any hint that the United States might be at war with Cuba.¹⁶ It was a distinction without a difference, since on the ground in Grenada all Cuban and Grenadian detainees were being treated as EPW.

Among the first duties of the 118th MP Company after it arrived was to construct a new camp for the growing number of EPW. MPs, assisted by soldiers of C Company, 307th Engineer Battalion and approximately 115 Cuban prisoners, began this effort on 1 November and completed the task some 30 hours later.¹⁷ This enclosure was used to contain over 700 detainees. While in the custody of the 82d Airborne Division MP units, all the prisoners and detainees were screened and classified as EPW, retained personnel, or civilian internees. The ICRC was invited to observe their detention conditions, all sick and wounded received medical care, and Cuban and Grenadian prisoners were permitted to contact their next of kin.¹⁸

In accordance with the JCS instruction to repatriate wounded Cubans as rapidly as possible, on 2 November, and with the assistance of the ICRC, 57 wounded Cubans and 10 Cuban medical staff who had been working on the island were flown out to Barbados. There, they were transferred to a Swiss aircraft with Red Cross markings and flown to Havana. The remainder of the Cuban prisoners (approximately 630) were released and flown back to Cuba between 4 and 8 November. The bodies of the 24 Cubans killed in the fighting were exhumed on 10 November, flown to Barbados on 11 November, and flown to Havana on 12 November.¹⁹

When analyzing the events on Grenada relating to EPW, a few salient points emerge. Prisoners were captured early on the first day of the intervention (25 October), but no US MP units were ashore to accept custody of them until later that day, when the 82d Airborne Division landed. The CPF, which shared custody of some of the prisoners for about 36 hours, lacked the knowledge of Geneva Conventions required for this mission. Before and after that time until 28 October, EPW detention was performed by US Marine and US Army combat units, using an artillery battery as a provisional infantry company in the case of the marines and attached MP units in the case of the Army. The JCS expressed concern over the burden this posed to combat units and in prisoner classification, interrogation, treatment, and repatriation. The JCS was also mindful of international public opinion regarding detainee treatment and were willing to permit press interviews of detainees.

Regarding interrogation of prisoners and detainees, the only substantive issue that emerged was the lack of sufficient language-qualified interrogators.

This problem was resolved by sending in three interrogators from XVIII Airborne Corps headquarters and placing three others on standby.²⁰ An MI unit assisted in the detailed sorting of prisoners. From the logistical support perspective, the 82d Airborne Division did not arrive on the island prepared to feed, clothe, and shelter over 1,500 detainees. In the larger scheme of things, Operation URGENT FURY reinforced several known principles in the prisoner-of-war arena and offered no insurmountable challenges.

A New Military Police Field Manual

The MP school published FM 19-4, *Military Police Team, Squad, Platoon Combat Operations* in May 1984 to teach MP company-grade leaders how to perform their four traditional missions in the AirLand Battle environment.²¹ Chapter 8 of the manual is titled “The Enemy Prisoner of War Mission.” This chapter does mention the Geneva and Hague Conventions in one passage and acknowledges the presence of MI interrogation teams at collecting points and holding areas. FM 19-4 discusses the need to hurry EPWs to the collecting point so that “they can be interrogated by an MI interrogation team and then processed.”²² It also explains that during the evacuation process, before beginning a foot movement of EPW, the military police may use the MI interpreter to issue instructions regarding march discipline, actions during an emergency, and the meaning of the word “halt.”²³ The text defers to the 1976 version of FM 19-40 that was still current for detailed coverage of EPW operations.

A New Intelligence Interrogation Field Manual

The MI branch released a revision of its intelligence interrogation field manual in May 1987, renumbered from the previous FM 30-15 series to the new FM 34-52. The application of Geneva Conventions to interrogation activities contained in an early section of the previous FM 30-15 published in September 1978, was significantly abbreviated and moved into the new manual’s preface.²⁴ The new manual’s section concerning “Prohibition Against Use of Force” was relatively unchanged, showing only minor word changes and the addition of a Uniform Code of Military Justice (UCMJ) warning.²⁵

Training in the provisions of Geneva Conventions and in the general principles of the laws of land warfare was mentioned again in the new 1987 edition as an area of specialized training.²⁶ A section of the new manual titled “Capabilities and Limitations of Interrogators” reminded readers of the limits set by the Geneva and Hague Conventions and the UCMJ on what measures could be used with uncooperative prisoners.²⁷

Because certain provisions of the interrogation process described in FM 34-52 have received recent widespread press attention, it is useful, briefly, to review this section of the manual.²⁸ According to the 1987 manual, the “interrogation process” includes two phases: screening sources and conducting the interrogation. The role of MP guards during screening is passive—upon questioning, they provide to the MI screener information about the source’s behavior, response to orders, requests made by the source, and the identity of sources that might provide required information. The end result of screening should be the identification and selection of sources that, through interrogation, may best satisfy the commander’s priority information requirements.

The 1987 manual discusses interrogation procedures in five steps: planning and preparation, approach, questioning, termination, and reporting. It encourages interrogators to question the guards again during the interrogation planning phase, but using a slightly different rationale than the 1978 manual. The new emphasis is on what information guards can provide about their knowledge of a source’s behavior and potential intelligence capability. Six specific areas of questioning the guards regarding the source are suggested: physical condition, attitude and behavior, contacts with other guards or sources, handling since capture, hearsay information from other guards regarding the source, and confirmation of capture data.²⁹

As explained in FM 34-52, the approach phase actually begins upon the interrogator’s initial contact with the source and has three purposes: establish and maintain control over both the source and the interrogation, establish and maintain rapport with the source, and manipulate the source’s emotions and weaknesses to gain cooperation. In the paragraph “Establish and Maintain Control,” the 1987 manual contains the following text:

The interrogator should appear to be the one who controls all aspects of the interrogation to include the lighting, heating, and configuration of the interrogation room, as well as the food, shelter, and clothing given to the source. The interrogator must always be in control, he must act quickly and firmly. However, everything that he says and does must be within the limits of the Geneva and Hague Conventions, as well as the standards of conduct outlined in the UCMJ.³⁰

How the 1992 version of FM 34-52 modifies this paragraph will be pointed

out in Chapter 9.

The 1987 manual also contains a new chapter important to this study: “Direct and Supervise Interrogation Operations.”³¹ This chapter directs the senior interrogator, when establishing a site for the conduct of interrogation operations, to coordinate the following provisions with the holding area commander (normally an MP officer):

- selection of a specific screening site that meets delineated criteria
- medical support for examination of any sick or wounded prisoners before interrogation
- guards for escort throughout the interrogation process
- movement routes and procedures to and from the holding area and interrogation site
- evacuation procedures
- communications, including primary and alternate electrical and courier means (with C-E officer)
- physical preparation of the site³²

It should be noted that when this intelligence interrogation field manual was published (May 1987), no MP field manual on EPW operations existed that advised MP holding area commanders to be prepared to make these same coordinations.³³

While changes to the organization of FM 34-52 make page-by-page comparison with the 1978 manual difficult, it is clear that an entire page of Geneva Convention cautions from the 1978 manual was dropped from the 1987 manual’s chapter that describes interrogation procedures. Also absent from the 1987 manual are large sections of text that describe other facets of prisoner handling, such as the “five S’s” (search, silence, segregate, safeguard, and speed to rear).³⁴ These omissions appear to have occurred as part of a larger effort to refocus the 1987 manual away from “common soldier tasks” toward those tasks performed primarily by MI interrogators.

Reflecting the growing “joint” nature of the US Armed Forces in 1987, FM 34-52 contains a chapter titled “Joint Interrogation Facilities” (JIF).³⁵ The joint interrogation facility (JIF) is described as an intelligence collection facility “tailored to meet specific requirements of crises, contingency deployments, or military assistance operations to host nations.” While the JIF may be manned by interrogators, CI personnel, and analysts from all branches of the Armed Forces and other national agencies, the

Army is the executive agent for its establishment, organization, and function. The commander of the JIF is the echelons-above-corps (EAC) MI brigade commander associated with the theater in question. The 1987 JIF becomes a “theater interrogation facility” (TIF) in 1992 and later a “joint interrogation and debriefing center” (JIDC) (the same designation given the special wing at Abu Ghraib prison in 2003).³⁶

Several points contained in this JIF chapter are of particular interest to this study. The text explains that the theater J2 exercises staff control over the JIF and serves as its requirements-control authority. The JIF commander is directed to coordinate with the provost marshal for all JIF site operations. Among the activities to be coordinated with the MP elements are safeguarding, exploitation, and timely evacuation of sources. The security of the JIF and control over sources within the JIF are the responsibility of the JIF commander. Finally, the JIF commander coordinates and interfaces with legal, medical, and chaplain activities and authorities supporting EPW camps “to ensure compliance with the Geneva Convention concerning the treatment and care of sources.”

The chapter of the 1978 *Intelligence Interrogation* manual (FM 30-15) titled “Interrogation Support of Internal Defense and Development Operations” was replaced in 1987 (FM 34-52) by “Low-Intensity Conflict,” which encompasses four categories: peacekeeping operations, foreign internal defense, peacetime contingency operations, and terrorism counteraction.”³⁷ The Geneva Convention content of these two chapters is identical. Both use the same language to describe the legal status of insurgents and also to guide the actions of a US adviser who witnesses brutal treatment of a detainee by host-nation personnel. The 1987 manual, just as its 1978 predecessor, urges humane treatment of insurgent captives “far beyond compliance with Article 3.”³⁸ Finally, the same Geneva Convention materials found in Appendix E of the 1978 manual are also printed in Appendix J of the 1987 manual.

In summary, the changes introduced in the new intelligence interrogation manual FM 34-52 relative to this study include the following:

- somewhat reduced Geneva Convention content, but still strong affirmation of “better than Article 3” treatment for insurgents
- increased detail in coordination required with military police commander of EPW holding areas
- introduction of a theater-level JIF controlled by J2 and commanded by EAC MI brigade commander

Operation JUST CAUSE

US armed forces launched Operation JUST CAUSE in Panama on 20 December 1989 to protect and defend American citizens living there, protect and defend the Panama Canal, and remove General Manuel Noriega from power.³⁹ The EPW aspects of Operation JUST CAUSE, though much larger in scale than in Grenada, were less expedient in nature because of the greater time permitted for planning them. Lieutenant General Carl Stiner, warfighting Commander, Joint Task Force South, who was also commander of XVIII Airborne Corps, in consultation with his staff judge advocate and the commander of 16th MP Brigade, pre-selected Empire Range training complex for the central detainee collection camp (CDCC). Factors in this site selection included its central location near Panama City (on the west side of the canal about 10 miles northwest of the city), good road access, large open areas to erect camp facilities, helicopter landing zones, some permanent shower and latrine facilities, administrative buildings, and utility hookups. The selection of this site before the start of combat operations permitted building supplies and materiel, such as tentage and barbed wire, to be pre-positioned there.⁴⁰

The 65th MP Company from Fort Bragg, North Carolina, augmented by 519th MI Battalion and 92d Personnel Services Company, operated this camp from 20 December 1989 to approximately 15 February 1990.⁴¹ During this period, camp personnel processed approximately 4,000 detainees brought to the camp by ground or helicopter transport from the five EPW/detainee collection sites operated by the five tactical task force headquarters conducting combat operations.⁴² One such collection site, for TF *Semper Fi*, was located at Rodman Naval Base. Persons detained by this task force were turned over to control of its attached US Army 534th MP Company, who tagged, processed, and transported the detainees from a field collection site to Rodman. There, they were further processed by naval and marine security personnel and then transported to Empire Range.⁴³

All detainees were inprocessed at the CDCC to determine identification, based on self-volunteered information obtained through Spanish-speaking troops or interpreters or from capture tags. An intelligence debriefing was used to identify detainees subject to further intelligence interrogation, which was conducted at an on-site MI interrogation facility.⁴⁴ Detainees were also screened for medical problems or special needs by US military medical personnel. Detainees with communicable diseases were isolated and treated immediately.

Of the nearly 2,400 detainees processed during the first four days of CDCC operation, only 800 self-identified or were determined by a “probable-cause” standard to be members of the Panamanian Defense Force (PDF) or other combatants. It was not unusual for PDF personnel either to not have identification documents or to lie about their identity. Detainees categorized as displaced civilians (DC) were transferred from the CDCC to a DC center at Balboa High School. Convicted or criminally accused civilians were separated into a civilian internee (CI) section of CDCC and held there to be turned over to the Panamanian government at a later date. Although some difficulties were experienced in the EPW status-determination process, an informal three-man panel was formed, consisting of a JAG officer, a representative of the camp commander, and an MI officer to make status determinations.⁴⁵ The need to resort to a formal Article 5, GPW tribunal never materialized.

Categories of separation of detainees included officers from enlisted men, men from women, and unruly and mentally ill prisoners from all other detainee populations.⁴⁶ The CDCC provided latrine and laundry facilities, potable water, out-going mail services, and prompt next-of-kin notifications. Detainees were provided essential hygiene items (soap, toothbrushes, and other sanitary supplies), and clothing items and shoes from both PDF and US stocks. Medical services came from US channels as well as captured PDF stocks, and retained medical personnel were allowed to serve their fellow detainees. Each senior ranking officer had a copy of GPW in Spanish by 24 December.

Those EPWs who volunteered to work, either in the camp or in clean-up activities in Panama City, were engaged in labor that did not violate Articles 49-57 of GPW, and were paid under a modified Article 60, GPW wage scale. The ICRC made three inspection visits to the facility during its operation to ensure compliance with GPW and GC.

Repatriation of detainees began on 23 December, through a program that permitted PDF members to swear allegiance to the new government of Panama and then be repatriated. Some 500 personnel were released to the custody of Panamanian government authorities in this process from 23-26 December. At that date, additional screening criteria were imposed by US authorities and the repatriation process was considerably slowed. In early January 1990, the Panamanian government requested and was given custody of all but about 100 individuals, who US authorities believed merited continued detention. US and Panamanian government officials formed a “judicial liaison group” to review individual cases and determine the fate

of these last 100 detainees. Based on the work of this group, a few of these last prisoners were transported to the United States for civil prosecution and those remaining were turned over to the Panamanian government.⁴⁷

Operation JUST CAUSE, while presenting many daily challenges to soldiers and units handling EPWs and detainees, in the end did not reveal any glaring deficiencies in EPW doctrine. The number of detainees held was considerably larger than in Grenada and the detainees were held in detention for a longer period of time. Although it was more difficult in Panama than in Grenada to classify detainees as combatant or civilian, classification was accomplished without resorting to formal Article 5 tribunals. The available open-source literature does not identify the interrogation facility as a JIF, as described in the 1987 doctrinal manual. Military police, military intelligence, and support personnel and units in Panama had more time to plan and prepare for their EPW missions, which, in the end, were successfully accomplished.

Notes

1. This date comes from Ronald H. Cole, *Operation URGENT FURY: The Planning and Execution of Joint Operations in Grenada, 12 October -2 November 1983* (Washington, DC: Office of the Chairman of the Joint Chiefs of Staff, 1997), 13.

2. Cole, 13 and 21. Mark Adkins, in *URGENT FURY: The Battle for Grenada* (Lexington, MA: Lexington Books, 1989), 220, suggests that this coordination occurred in a discussion at Point Salines airfield upon the arrival of the Caribbean Peacekeeping Force (CPF) there on the morning of 25 October.

3. Cole, 37.

4. Ronald H. Spector, *US Marines in Grenada 1983* (Washington, DC: United States Marine Corps, 1987), 8.

5. Adkins describes this confusion and the establishment of a temporary camp in pages 219-20.

6. Lieutenant Colonel Allen Gibbs and Major Allen Grammer, "Grenada: Chronology of 82d MPs," *Military Police Journal*, 11 no. 1 (Spring 1984): 34-5.

7. Major Wayne Hicks, "Operation 'URGENT FURY': Military Police (MP) in Grenada," unpublished manuscript, US Army Military Police School, 1989, 6.

8. Adkins, 263.

9. Spector, 22-3.

10. Cole, 53-4.

11. Frederic L. Borch, *Judge Advocates in Combat: Army Lawyers in Military Operations from Vietnam to Haiti* (Washington, DC: Office of the Judge Advocate General and Center of Military History, 2001), 66. Gibbs, "Grenada: Chronology," 34; Specialist 5th Class Jerry Healy, "MPs Process Detainees," *Military Police Journal*, 11 no. 1 (Spring 1984): 37.

12. Cole, 57.

13. Healy, "MPs Process Detainees," 37; Hicks, "Military Police in Grenada," 7.

14. This party's attempt to escape and subsequent capture are recounted in Adkins, 293-8 and 308. After interrogation and the end of hostilities, these three were returned to the custody of the new government of Grenada. They were later tried and sentenced to death by hanging on 4 December 1986. Adkins, 330-1.

15. Cole, 60.

16. Cole, 57, cites the 30 October correspondence from Lieutenant General Mahaffey to the JCS. Borch, 65-66, treats this issue in a slightly different tack,

avoiding the term “classification” and instead discussing treatment. According to Borch, Army lawyers in Washington, after consultation with both Defense and State Department authorities, “Determined that all persons captured should be treated [emphasis in original] as prisoners of war.”

17. Gibbs, “Grenada: Chronology,” 34; unattributed paper from Historian, US Army Military Police School (received by author 23 July 2004), 4.

18. Borch, 66.

19. Adkins, 315-7.

20. Cole, 43.

21. These missions were battlefield circulation control, area security, EPW operations, and law and order operations.

22. FM 19-4, *Military Police Team, Squad, Platoon Combat Operations*, 23 May 1984, 8-2.

23. Ibid., 8-11.

24. FM 30-15, 1978, last bullet of paragraph 1-2 and first bullet of paragraph 1-3, page 1-2. FM 34-52, *Intelligence Interrogation*, 8 May 1987, preface at iii.

25. FM 34-52, 1987, 1-1.

26. FM 30-15, paragraph 1-13; FM 34-52, 1987, page 1-5.

27. FM 34-52, 1987, page 2-7.

28. Ibid., Chapter 3, “Interrogating Procedures,” 3-0 to 3-15.

29. Ibid., pages 3-0 and 3-3.

30. Ibid., 3-5. Investigators of detainee abuse at Abu Ghraib have suggested that the use of this superseded manual by policy authors and misapplication of this passage by interrogators may have contributed to abuse at Abu Ghraib and other detention sites in Iraq. See Major General George R. Fay, investigating officer, AR 15-6 “Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade” (Washington, DC: Department of the Army, 24 August 2004), 16.

31. FM 34-52, 1987, Chapter 5, pages 5-0 to 5-3.

32. This text in the 1987 manual appears to have been drawn and expanded from the section of the 1978 manual that describes the organization of the corps interrogation center. See FM 30-15, 1978, paragraphs 3-34 and 3-35 on pages 3-42-43.

33. In fact, the February 1976 version of FM 19-40 was to remain in effect until the publication of its replacement in August 2001, a period of over 25 years in length.

34. FM 30-15, 1978, paragraph 3-2 “Geneva Conventions” on page 3-2; and

Section III “Treatment, Handling, and Evacuation of Enemy Prisoners of War and Other Detainees,” of Chapter 3, paragraphs 3-16 “Treatment of EPW” and 3-17 “Handling of EPW,” pages 3-8 through 3-14.

35. FM 34-52, 1987, Chapter 8 on pages 8-0 to 8-2.

36. FM 34-52, *Intelligence Interrogation*, 28 September 1992, paragraph titled “Echelons Above Corps Facilities” on page 2-12. The designation “joint interrogation and debriefing center” comes from the Article 15-6 Investigation of the 800th Military Police Brigade, commonly referred to as the “Taguba Report,” which, although classified, has been publicly available since early May 2004. See <http://news.findlaw.com/cnn/docs/iraq/tagubarpt.html>; last accessed on 20 July 2004.

37. FM 30-15, 1978, Chapter 4, and FM 34-52, May 1987, Chapter 9.

38. FM 34-52, 1987, page 9-7.

39. Material for this Operation JUST CAUSE section, unless otherwise cited, is taken from Major Kevin H. Govern, “Sorting the Wolves From the Sheep: Enemy Prisoner-of-War Operations During Operation JUST CAUSE,” a paper presented at the March 2000 Special Operations Forces (SOF) Legal Conference. This article is available at www.jagcnet.army.mil, as of 16 July 2004, under the title “Enemy Prisoner of War (EPW) Operations during Operation JUST CAUSE.” During the operation, then Captain Govern was the judge advocate to 16th MP Brigade, the major unit responsible for EPW operations.

40. The decision to use this site was made no earlier than a week before the operation was executed, and materials were pre-positioned and ready for use at D-3. Lieutenant Colonel Kevin Govern, e-mail interview by author, 19 July 2004.

41. The 65th MP Company was augmented by 56 MPs from Fort Lee, Virginia and 30 MPs from the Missouri National Guard. See Edward M. Flanagan, Jr., *Battle for Panama: Inside Operation JUST CAUSE* (Washington, DC: Brassey’s, 1993), 211.

42. These were *Atlantic*, *Semper Fi*, *Bayonet*, *Pacific*, and Joint Special Operations TF. For the composition of each task force, see Flanagan, *Battle for Panama*.

43. Captain R. Barry Cronin, USMC, “Military Police Operations in Panama,” *Marine Corps Gazette*, 74 no. 9 (September 1990), 66-8.

44. Govern, e-mail interview, 19 July 2004.

45. Borch describes the composition and activities of this informal panel on page 104.

46. US troops had seized two mental hospitals during combat operations, and these persons were held for their own protection. See Borch, 103.

47. Borch, 105.

Chapter 8

Operation DESERT STORM

The EPW operations in the Persian Gulf War of February 1991 are an interesting case study for several reasons, some more obvious than others.¹ The ground war was brief—approximately 100 hours—but, in fact, EPW were taken from about a month before the ground war was launched until the formal surrender of Iraqi forces on 3 March 1991. The unit assigned to perform the EPW mission in late 1990 was the 800th MP Brigade (EPW), the same US Army Reserve (USAR) unit that is currently operating detention facilities in Iraq. Almost 70,000 prisoners captured by US, UK, and French forces were processed and interned in US EPW camps; these prisoners, along with some of the US-built camps, were ultimately turned over to the custody of Kingdom of Saudi Arabia (KSA) forces. The KSA paid most of the expenses for constructing and logistically supporting the EPW camps operated by the US Army. In the months after cessation of hostilities, a large number of Iraqi prisoners refused repatriation to their homeland, reinforcing the principle of “no forced repatriation” first established by the US government in Korea in 1953.

The 800th MP Brigade (EPW), stationed at Uniondale (Long Island), New York, was called to active duty on 6 December 1990. The brigade had an authorized strength of 8,461, of which 3,027 (36 percent) came from USAR units and 5,434 (64 percent) from Army National Guard units.² An advance party of 12 personnel from the brigade headquarters arrived in Saudi Arabia on 9 December and established liaison with Saudi Arabian EPW cadre to provide training for and assistance to them in establishing their own EPW capability. The brigade headquarters and headquarters company arrived in theater on 25 December.

The brigade commander, Brigadier General Joseph Conlon, and his G1 and G3 participated in an Army Central Command (ARCENT) map exercise on 26 December. The brigade raised six issues during this exercise: support for selection of EPW camp sites outside the combat zone based on availability of water, engineer support, transfer of EPW to the Saudi government, use of retrograde (backhaul) transportation for EPW movement, shortage of communications and transportation assets in EPW units, and the balance between camp capacity and anticipated capture rates. This exercise provided the basis for the brigade’s subsequent EPW planning. The 800th MP Brigade staff prepared EPW OPLAN 1-91, which was published on 14 January 1991. In accordance with

extant Army doctrine in 1990, the brigade was subordinated to the 22d Support Command (SUPCOM) and Brigadier General Conlon reported to Lieutenant General William G. Pagonis.³

Five MP camps (EPW) from Florida, Tennessee, Pennsylvania, Nebraska, and Michigan were activated between 6 December 1990 and 3 January 1991. An MP camp is commanded by a colonel and manned with 25 officers, two warrant officers, and 269 enlisted personnel. Its mission, while employing an MP battalion and several MP companies, is to serve as a headquarters for processing and internment of EPW. Upon activation, each MP camp reported to a CONUS mobilization station for preparation and training for overseas deployment. This process took approximately 30 to 35 days, after which the unit deployed to Saudi Arabia.

Upon arriving in theater, and after a brief period of acclimation and orientation, these MP camps deployed to a camp site and either took over operation of an existing facility or in some cases constructed an EPW camp with their own personnel and on-hand materials. The MP camps remained in theater until the late-May to mid-June time period, and after turning over their EPW facility to the KSA or dismantling it entirely, they returned to the United States and were deactivated. All the MP camps were on active duty for a period of five to six months.

Seven EPW advisory teams (four camp and three processing) were activated and deployed to Saudi Arabia from Tennessee (two teams), Nebraska, Florida, Pennsylvania, California, and Michigan. A camp advisory team is typically commanded by a lieutenant colonel and has a required strength of 12 personnel (three officers and nine enlisted personnel). A processing advisory team has a required strength of four personnel (one officer and three enlisted personnel). The mission of these advisory teams was to help account for EPW and provide EPW expertise to KSA forces. All these teams arrived in theater in late January or early February 1991, and were assigned to various EPW headquarters to assist with essential coordination or accounting services.

A host of other support units were activated and deployed to Saudi Arabia to help execute the EPW mission. These included MP EPW information, processing, guard, and escort guard units, psychological operations units, an AG personnel services company, a field hospital, and two MI Detachments. All of these units came from the USAR or Army National Guard.⁴ Back in Washington, the National Prisoner-of-War Information Center (NPWIC) was activated partially on 17 January 1991 and fully on 21 January in the Pentagon. The NPWIC handles prisoner-of-war

information for both enemy personnel in American custody and American armed forces personnel in enemy captivity.

Brigadier General Conlon's concept of the operation was to establish two EPW camp areas (BRONX in the east and BROOKLYN in the west) with two camps in each. BRONX would support the marines; BROOKLYN would support VII Corps and XVIII Airborne Corps and also accept EPW from the British and French forces operating with XVIII Airborne Corps. The four camps would be built to accommodate 12,000 EPW each, with the capability to double prisoner capacity without additional MP personnel. The camps would be sited with consideration for transportation access and availability of water. The 800th MP Brigade assumed responsibility for EPW upon their transfer from holding areas operated by the marines in the east and the two Army corps and allied forces in the west. Transporting of EPW from these holding areas back to the camps was intended to be accomplished by using empty 22d SUPCOM supply vehicles.

Because the Saudi government did not want EPW in US control for more than 30 days, an important element of Brigadier General Conlon's plan was the eventual transfer of EPW to Saudi control. This could be accomplished by two methods: physical movement and transfer of EPW from a US camp to a Saudi camp, or transfer of a camp-in-being from US control to Saudi control. Both methods were applied, and by the end of March 1991, most Iraqi prisoners were under Saudi control.

The first task given each of the four MP camps was to construct their enclosures.⁵ This process began on 17 January 1991 with the start of constructing the 401st MP Camp near As Sarrar in the east. Engineers used heavy equipment to level an enclosure area and then surround it with a high berm for security. Engineers also installed a waste disposal system to drain human waste into a nearby lagoon and a generator with light poles and wiring for a perimeter security lighting system. Quartermaster troops helped install water lines in the camp and MPs set up the compounds and enclosures inside the perimeter. The first enclosure was completed on 20 January and the first EPW arrived on 21 January.⁶ This camp reached a peak capacity of 11,352 EPW on 7 April and was closed out on 21 April, after it had turned over all of its EPW to KSA forces. It had processed nearly 22,000 EPW during the period of its operation.

Construction of the 403d MP Camp, collocated with 401st MP Camp, began on 20 January and proceeded slowly due to higher priority given to construction of 401st MP Camp. The 403d MP Camp accepted its first EPW on 17 February and processed slightly over 10,000 EPW during the

next six weeks. At the end of March, with approximately 1,600 EPW still in custody at this site, the commander received permission to tear down the camp using EPW labor. This work was nearly completed on 31 March, just in time for a large influx of refugees created when the Iraqi Army crushed a revolt in Basra. The 403d MP Camp rebuilt one enclosure for this contingency and operated it until 17 April, when the camp was torn down for the last time.

In the west, the 400th MP Camp began constructing a camp at Hafar al Batin on 21 January. The first compound was completed on 24 January, and the camp was turned over to 301st MP Camp on 27 January. The 301st processed approximately 21,500 EPW and CI at this facility and later turned it over to KSA control at an indeterminate date in April. The 301st Camp established an advisory staff and continued to support the camp's operations, which included the processing of several thousand additional EPW. The last EPW left the camp on 4 May and the 301st MP Camp personnel tore it down and left the site on 11 May.

The 402d MP Camp was assigned to build an EPW camp in BROOKLYN to support the US Army's VII Corps. The MP units accomplished this task without the support of engineer units, constructing a 12,000-person camp in three weeks. The 402d Camp took its first prisoners on 3 March, the day of the formal cease-fire talks, and during its short life processed 16,277 EPW. During the month of March, the 402d Camp trained members of a Saudi National Guard battalion in EPW operations and, on 4 April, turned the camp and the 15,286 EPW it contained over to them. The 402d personnel remained at this camp for another month, advising and assisting the KSA in daily operations. On 10 May 1991, the KSA closed the camp after moving or repatriating all of its EPW. The 402d MP Camp redeployed to the United States on 21 May 1991.

While the layout of each camp varied depending on terrain, perceived security threat, and access roads, each camp contained common elements that can be traced back to the 1976 edition of FM 19-40. The building block of a camp was the 500-man compound, eight of which made a 4,000-man enclosure. Within each enclosure were an administrative compound for staff and a recreational compound for the EPW. Camps typically contained three enclosures for a planned capacity of 12,000 EPW. Apart from the enclosures were supply, holding, and processing areas. The supply area was used to store rations, clothing, bedding, and other consumables. The holding areas were used to segregate incoming and outgoing EPW during processing and the processing area to perform the measures

required by Geneva Conventions to identify, account for, and medically examine EPW. A typical camp was quite large, measuring roughly 1,000 meters on one side.

The EPW brought into a camp were first placed in the holding area. When processed, each EPW was searched, given a shower and physical exam, deloused, interviewed for identification and other personal data, photographed, fingerprinted, issued an identity card or wristband, issued an internee serial number, and given a change of clothes and a blanket. When the inflow of EPW was heavy, some steps required by the US Army but not the ICRC were eliminated. Prisoners were segregated by rank (officer, NCO, enlisted) and, at one camp, also by religion and disposition toward the Iraqi government.⁷

Security, a major responsibility of MP guard units at each camp, was handled differently depending on the camp layout and its commander's evaluation of the security threat. In the west, the commanders dispersed MP guard company billeting areas around the perimeter of the camps so that guard personnel could react to an external attack or a mass-escape attempt. In the east, the perceived greater threat was terrorist attacks or prisoner attempts to escape and seize vehicles, weapons, or supplies. The commanders of the collocated 401st and 403d MP Camps concentrated all US units and interpreters in a common site designed for all-around defense and surrounded their two camps and supporting units with a common defensive perimeter. The 800th MP Brigade designated the 401st MP Camp commander as the Eastern Area Commander in charge of security.⁸ This almost nine-mile fence line had 12 outposts that were manned 24 hours and backed up by two motorized patrols. Given the limited number of MP guards available, it is fortunate the Iraqi prisoners, for the most part, were cooperative. None of the uprisings or riotous behavior that occurred in the Korean EPW compounds happened here.

Providing food and water for an average of 50,000 Islamic EPW a day, not an easy task in any conditions, would have been impossible without the full support of the KSA. The average daily requirement was 150,000 meals and 1,500,000 gallons of water. The US Army supplied rations for the MPs and other US personnel, but not the EPW. While methods of cooking and preparation varied from camp to camp, ultimately the EPW were fed Saudi-funded, catered, German rations that met Islamic dietary requirements. Prisoners did much of the work involved in food distribution and preparation, from unloading the rations brought into camps on heavy trucks to cooking and serving meals. Water came from wells or was hauled in

daily from the wholesale tactical water distribution system.

Tentage, clothing, and other EPW supplies were not available in the US Army supply system. While the prewar planning figure had been 100,000 EPW, the Army had not stockpiled nor did its supply system recognize the need for EPW items.⁹ The Saudi Arabian government contracted and paid for 50,000 sets of clothing, blankets, bedding, shoes, and prayer rugs. The MP camp units did not have organic transportation to move either supplies or prisoners and relied on borrowed transport from other units or contracted vehicles for these missions.

The 800th MP Brigade created and operated two large motor pools to contain and service some 200 contracted buses. These buses were used to move EPW from corps holding areas back to camps and from US camps to KSA camps. Military police were trained as bus drivers to operate these vehicles; military police who were mechanics in civilian life struggled to maintain the vehicles with limited tools and parts. The vehicle fleet of the 403d MP Camp illustrates how difficult this job could be: 29 US trucks, three German water trucks, a bulldozer, two forklifts, a front-end loader, five locally acquired 10-ton trucks, and a wide variety of US and foreign-manufactured power generators.¹⁰

Field sanitation remained a continuous challenge at all the camps. Waste-disposal systems had to be constructed and maintained to serve approximately 10,000 EPW plus another 1,000 MPs and staff, in the face of geographical, climatic, and cultural challenges. Shower water was allowed to drain into gravel sumps while human waste had to be piped into offsite lagoons. The maintenance of above-ground PVC-pipe gravity and pump sewage systems was problematic. Arabic latrine design and use required considerably more water than American planners envisioned.

Medical treatment was provided to EPW both in camp and, for more serious cases, at US medical facilities. An MP camp headquarters was authorized one doctor and nine medical technicians, hardly sufficient to provide qualified medical care for a population of 12,000. Each EPW was medically screened during processing. Each camp had a dispensary, operated by US medical personnel and often employing Iraqi medically trained EPW as well. The 300th Field Hospital, a USAR unit from Pennsylvania, set up a 400-bed facility at As-Sarrar, near the 401st/403d MP Camp area, and provided direct support for both camps. In the west, EPW requiring more medical care than was available in-camp were transported to three US Army evacuation hospitals. This necessitated also the dispatch of processing and MP security personnel to the medical facilities.¹¹

Intelligence interrogation of Iraqi EPW was conducted at two facilities: JIF West was located within the perimeter of the 301st MP Camp, and JIF East was sited between the 401st and 403d MP Camps. MI screeners operating in all four camps selected EPW for further interrogation. The JIFs were operated by the 202d MI Battalion, 513th MI Brigade, that also provided the camp MI screening teams.¹² Some 25 Iraqi EPW who were thought to possess high-value intelligence information were taken to a JDC in Riyadh, established by CENTCOM Headquarters. All movements of EPW from camp to JIF to JDC and back to camp were conducted by 800th MP Brigade personnel, who also provided security during interrogation. No prisoner maltreatment during interrogation, at either of the JIFs or the JDC, has been reported or alleged.¹³

Among the 70,000 Iraqis that filtered through the US Army's EPW camps were a relatively modest number who were or claimed to be civilians. The 800th MP Brigade, rebuffed in an attempt to gain formal Article 5, GPW tribunal authority from ARCENT, developed and conducted its own tribunal process.¹⁴ Using borrowed JAG officers from 22d SUPCOM, the 800th MP Brigade Judge Advocate conducted 1,198 administrative tribunals to determine EPW status, finding 886 persons to be innocent civilians, 310 to be EPW, and two others to be retained personnel. Those determined to be civilians were transferred to Safwan, a US-operated refugee camp, or to Rafha, a Saudi Arabian refugee camp.¹⁵

Among the administrative tasks required by GPW is the strict accounting of prisoners. In Operation DESERT STORM this was accomplished using a computer-based system, Prisoner of War Information System Version II (PWIS II). While problems identified in the system's software in 1988 had not yet been corrected in August 1990, the Army was able to field a workable version in time for the start of Operation DESERT STORM. Even with the assistance of Kuwaiti and Saudi translators, US soldiers had a difficult time transliterating and transcribing Iraqi names.¹⁶ Some Iraqi detainees gave false names during processing, and others engaged in the practice of switching identification bands.

Another problem that remained unresolved at the end of the operation was how to account for Iraqi prisoners that died of wounds after capture but before in-processing at an EPW camp.¹⁷ Guided by the Geneva Conventions, the US Army logically considered every Iraqi soldier to be an EPW upon capture and, therefore, subject to processing. The 800th MP Brigade, however, considered the dead Iraqi soldier to be killed in action (KIA) and, therefore, a matter to be handled by graves registration. Since

an oral interview was required during EPW processing, the dead Iraqi soldier could not effectively be in-processed. In addition, the dead Iraqi soldier would then be counted as having died in captivity, invoking another Geneva Convention and regulatory process. The Department of the Army relented after the first attempt to process a dead EPW and subsequently permitted the 800th MP Brigade to follow its own policy.¹⁸

The penultimate disposition of every EPW was transfer to KSA custody, either by movement to a KSA-run camp or by wholesale transfer of the US camp to Saudi Arabian control. The KSA camps were located one each in the east and west zones, a third south of King Khalid Military City, and a fourth for officers only at Tobuk. The rate at which EPW were transferred to KSA camps was determined by the capacity of the latter, which were smaller in size than US camps. Mindful of the requirements of Article 12, GPW which governs the transfer of EPW from one power to another, the US government provided advisory teams to assist the Saudi government in operating their camps in accordance with GPW.

In accordance with the March cease-fire agreement, repatriation of Iraqi EPW was to be conducted under ICRC auspices. After initial KSA accounting difficulties were overcome, a total of 73,325 prisoners were released back to Iraqi control. Those who remained in medical channels at the time of their repatriation were flown to Baghdad on ICRC aircraft, while the remainder were transferred overland at a site near the Jordanian border. Another 13,318 Iraqi prisoners, or approximately 18 percent of the total, refused repatriation back to Iraq and on 5 August 1991 were reclassified by the United States as refugees.¹⁹

In their postwar analysis of brigade operations, the leadership of 800th MP Brigade (EPW) collectively identified three major problem areas: Army support for the EPW mission, theater command and control of EPW operations, and staff oversight of EPW operations.²⁰ Regarding the first issue, one paragraph from the report suffices to make the point:

The Army failed to appreciate the full consequences of the EPW mission, particularly the magnitude of the logistical support required for 70,000 EPW. Even though the Saudis were paying the bill and most of the supplies were obtained by local purchase, the Army still had the responsibility to support the EPW mission. . . . The Army logistical system in the Southwest Asia Theater should have been prepared better than it was to procure the EPW supplies, transport them to the EPW camps, and manage the process of sup-

porting EPW operations.²¹

Whether the Army was unprepared to provide logistic support to the EPW mission because it failed correctly to predict the capture rate, or because it relied too heavily on its agreement with Saudi Arabia, the point is well made. The lesson of Korea in September 1950 after the Inchon landings and North Korean retreat had to be relearned in the sands of Southwest Asia in the spring of 1991.

The second issue raised by the brigade command—theater command and control of EPW operations—turned out to be a non-issue in that within three weeks after arriving in theater, the 800th MP Brigade was assigned to 22d SUPCOM.²² Viewed in retrospect, this was not only the most workable command arrangement on the ground but also appears to comply with doctrine at that time. The two commanders, Brigadier General Conlon and Lieutenant General Pagonis, also appear to have developed a close personal working relationship that contributed to the brigade's success in its mission.

The third issue raised by the brigade command is staff oversight of EPW operations. From the point of view of the 800th MP Brigade, the staff officers above them at 22d SUPCOM, ARCENT, and CENTCOM lacked extensive EPW training and experience. The single exception to this was the ARCENT Provost Marshal, who was the only higher headquarters staff officer to visit the 800th MP Brigade. Compounding the lack of training and experience in EPW affairs was a tendency of higher staffs to develop plans and issue directives without consulting with the brigade. The brigade commander and staff felt that many difficulties the brigade experienced could have been avoided with better top-down coordination.

The authors of the 1992 study of EPW operations in Iraq conclude their work with an assessment of the overall importance of EPW operations.²³ Among the points made are some that reflect the experience of the US Army in EPW operations over the decades and others that are derived from who we are as an army and a nation. These points, summarized, bear repeating:

- Proper treatment of Iraqi EPW was essential to influence global public opinion positively toward US policy.
- Approval of EPW treatment by the ICRC is an important asset for US foreign policy.
- A link existed between our treatment of Iraqi EPW and Iraq's release of Coalition prisoners.

- Humane treatment of enemy prisoners of war is consistent with our beliefs and principles.

The 800th MP Brigade (EPW) returned to Iraq in 2003 to perform the EPW mission for Operation IRAQI FREEDOM. One of its mission sites was the Abu Ghraib prison.

Notes

1. Unless another source is specifically cited, the information in this chapter is from John R. Brinkerhoff, Ted Silva, and John Seitz, *United States Army Reserve in Operation DESERT STORM, Enemy Prisoner of War Operations: The 800th Military Police Brigade* (Washington, DC: Chief, Army Reserve, 1992), hereafter cited as Brinkerhoff, *EPW Operations*.

2. Ibid., *EPW Operations*, 9.

3. The 22d Support Command was, in essence, the Theater Army Support Command (TASCOM) for Third Army, much like the 2d Logistics Command had been for the Eighth Army in Korea in 1950. Lieutenant General William G. Pagonis describes his first meeting with Brigadier General Conlin in his memoir, *Moving Mountains: Lessons in Leadership and Logistics from the Gulf War* (Boston: Harvard Business School Press, 1992), 151-2.

4. They are listed in Brinkerhoff, *EPW Operations*, 18.

5. The fifth MP Camp (400th from Florida) was the last to arrive (13 February 1991). Since the decision to establish four camps had been made by this time, the 400th MP Camp was divided into three smaller task forces. The subsequent activities of the 400th are described in Brinkerhoff, *EPW Operations*, 44-8.

6. These 22 EPW were Iraqis captured by the USS Nicholas on 19 January from oil platforms in the Persian Gulf. Brinkerhoff, *EPW Operations*, 21.

7. This happened at the 301st MP Camp. See Brinkerhoff, *EPW Operations*, 39.

8. Ibid., 30, 33.

9. Ibid., 50.

10. Ibid., 52.

11. Ibid., 44, 53.

12. Brinkerhoff, *EPW Operations*, in Figure 8 on page 18 shows two MI detachments. He identifies one of them as the 513th MI Detachment (-) in Table 7, also on page 18. In fact, the 202d MI Battalion, 513th MI Brigade operated both facilities. This unit processed approximately 60,000 EPW through the two facilities. See Sergeant Cheryl Stewart, "Joint Interrogation Facility Operations," *Military Intelligence* 17 no. 4 (October-December 1991), 36-8.

13. I base this statement on the absence of any reports or allegations of prisoner maltreatment during interrogation in all the sources I have reviewed since conducting this study. No prisoner maltreatment is mentioned in Appendix O, The Role of the Law of War, in the DoD's *Final Report to Congress: Conduct of the Persian Gulf War* (Washington, DC: April 1992), 617-9.

14. CENTCOM developed a formal procedure for this process after Operation DESERT STORM and published AR 27-13, *Legal Services: Captured Persons*.

Determination of Eligibility for Enemy Prisoner of War Status, on 7 February 1995. This regulation can be viewed at The Judge Advocate General Legal Center and School website, www.jagnet.army.mil, under “TJAGLCS Publications.” It will be found as an appendix to Chapter 5, “Prisoners of War and Detainees,” of the *Law of War Workshop Deskbook (2000)*; last accessed on 23 July 2004.

15. *Final Report to Congress: Conduct of the Persian Gulf War*, 619.

16. Kuwaiti military volunteers were slowly phased out and replaced by Saudi volunteers from various sources. John J. McGrath and Michael D. Krause, *Theater Logistics and the Gulf War*, 87.

17. FM 19-40, 1976, describes field processing as “that individual processing of PW which is accomplished in the combat zone as essential for security, control, or intelligence reasons or for the welfare of the PW while in evacuation channels.” Paragraph 2-2.a, page 2-1.

18. Brinkerhoff, *EPW Operations*, 58.

19. *Final Report to Congress: Conduct of the Persian Gulf War*, 619, 620. This reclassification was done in coordination with Saudi Arabia and the ICRC.

20. Brinkerhoff, *EPW Operations*, 61-4.

21. *Ibid.*, 61.

22. A brigade advance party arrived in Saudi Arabia on 9 December, followed by HHC on 25 December. An organizational chart shows the brigade as subordinated to 22d SUPCOM as of 15 January 1991. See McGrath and Kraus, Figure 7 on page 66.

23. Brinkerhoff, *EPW Operations*, 67-9.

Chapter 9

MI Interrogation and MP EPW Doctrine after Operation DESERT STORM

MI Interrogation Doctrine

The combat experience of and lessons learned in Operation DESERT STORM resulted in focused revision of MI interrogation doctrine soon after the conclusion of the war in Iraq. A spokesman for the new manual's author team wrote an article that appeared in the MI professional journal as the coordinating draft of FM 34-52 was about to be circulated.¹ Among the several specific interrogation problems encountered in the desert and identified were two that are relevant to this study:

- “No uniformity in interrogation of prisoner of war (IPW) cage operations among similar echelons within the same theater.
- No clear guidance as to the division of responsibilities for handling prisoners and collecting information from them.” In this article the author team wrote that, “FM 34-52 will describe operational procedures common to running all IPW cages and clearly state responsibilities for each staff officer, MI commander, and military police in handling prisoners and collecting information from them.”³

The new edition of FM 34-52, *Intelligence Interrogation*, was published in September 1992, about 18 months after the conclusion of Operation DESERT STORM. The Geneva Convention caution in the Preface, expressed in a general statement in the 1987 edition, is expanded in 1992 to include the listing of three specific Geneva Conventions (GWS, GPW, and GC). The UCMJ caution remains unchanged.

The “Prohibition Against Use of Force” section of FM 34-52 is significantly greater in both size and scope than its predecessor.⁴ It first outlines the responsibility of the intelligence staff officer (J2, G2, or S2) to ensure that all intelligence interrogations are conducted in accordance with various Geneva Conventions. Several rationales are provided to reinforce this point:

- Experience indicates that use of prohibited techniques is not necessary.
- Use of torture and illegal techniques yields unreliable results and may damage subsequent collection efforts.
- Revelation of the use of torture will discredit the United States and

its armed forces and undermine domestic and international support for the war effort.

- Revelation of the use of torture may place US and allied personnel in enemy hands at greater risk of abuse by their captors.

All of these reasons not to abuse sources (“MI-speak” for EPW and detainees) have appeared in previously published intelligence interrogation manuals in one form or other throughout the period covered in this study.

New in the 1992 version are an additional two pages of text in several parts. The first is a list of 11 specific examples of prohibited physical and mental tortures, including electric shock; forced prolonged standing, sitting, or kneeling; food deprivation; mock executions; and abnormal sleep deprivation. Coercion is defined and examples are provided. The text then lists 10 specific articles of the UCMJ that may be applied to US Army personnel, with a reference to the manual’s Appendix A, where each article is printed.

To assist an interrogator in determining if a contemplated approach or technique might be considered unlawful, the text offers two tests:

Given all the surrounding facts and circumstances, would a reasonable person in the place of the person being interrogated believe that his rights, as guaranteed under both international and US law, are being violated or withheld, or will be violated or withheld if he fails to cooperate.

If your contemplated actions were perpetrated by the enemy against US PWs, you would believe such actions violate international or US law.⁵

If the answer to either of these statements is “yes,” the interrogator is instructed not to employ the approach or technique and to seek a legal opinion from a judge advocate if doubt remains. The last part of this section assigns authority and responsibility for conducting interrogations to the commander and requires suspected or alleged violations of Geneva Conventions to be reported, investigated, and, if appropriate, referred to competent authority.

The next two sections are either new material or old material in a new place. New is a definition, excerpted from Article 4, GPW, of what constitutes a prisoner of war. Old, but in a new place is a full-page figure

showing excerpted text from seven articles of GPW. In the two previous versions of this manual, this material was contained in the appendices. It must be noted, however, that Article 3, published in full in every manual in this series back to 1967, is not included in this material. The sum of all these materials is about four and one-half continuous pages of Geneva Convention and UCMJ warnings, beginning on page 7 and ending on page 11 of FM 34-52. It replaces about six column inches of text in the previous version of the manual.

Just as in the 1987 edition of FM 34-52, understanding the US law of war is a special area of knowledge for interrogators. The interrogator is again reminded that one of the inherent limitations of interrogation operations is an uncooperative source and that the UCMJ, GWS, GPW, and GC set definite limits on how one can induce cooperation. This warning differs from the previous warnings only in its specificity of the three Geneva Conventions (GWS, GPW, GC).⁶

The corps interrogation facility (CIF), included in the 1978 manual but passed over in the 1987, reappears in the 1992 manual.⁷ Here the authors have the chance to address two of their objectives in writing the new manual—to describe operational procedures common to running all IPW (interrogation prisoner of war) cages, and clearly lay out the roles of MP and MI interrogators in the cage environment. Curiously, they fail to do either. Much of the 1992 text is little changed from 1978; in fact, it lists the same five functions of the CIF. It offers a sample layout of a CIF as a stand-alone entity while the text emphasizes that the CIF should be within or adjacent to the EPW holding area.

As for the role of the military police, the text credits them with responsibility for establishing and operating the EPW holding area. The CIF commander is encouraged to continuously coordinate with the EPW holding area commander. Military police, who have constant contact with detainees, have always been viewed as sources of information on their charges and also, by their proper handling of detainees, as contributors to the success of interrogation. In 1992, however, MI doctrine postulates a slightly more active role for the MP guards, beginning with the screening process:

Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought there from the holding area, and

what types of behaviors on their part will facilitate the screenings.⁸

While the text does not indicate who will provide this guidance to the MP guards, logic suggests that it will be members of the MI screening team and not the MP chain of command.

After screening comes interrogation planning, and here the role of the guards reverts to form—passively providing information about the source regarding physical condition, attitude and behavior, contact with other guards or sources, handling of the source since capture, confirmation of capture data, and hearsay information about the source.⁹ That is the full extent of the authors' effort "to clearly state responsibilities for each staff officer, MI commander, and military police in handling prisoners and collecting information from them." Regarding the interaction between MP and MI personnel, the 1992 manual essentially restates the content of the 1978 manual.

The 1992 manual describes the same five-phase interrogation process used in the 1987 manual, with some modifications to both text and layout. The paragraph "Establish and Maintain Control" from 1987, highlighted in Chapter 8 previously, was modified to read as follows in 1992:

The interrogator must always be in control of the interrogation. If the EPW or detainee challenges this control, the interrogator must act quickly and firmly. Everything the interrogator says and does must be within the limits of the GPW, Article 17.¹⁰

The references to interrogator control of light, heat, food, shelter, and clothing provided to the source are gone. The UCMJ warning in the 1987 version was also dropped from the last sentence of this paragraph.

In the 1992 manual, the interrogation facility at EAC is named the theater interrogation facility (TIF).¹¹ By its description, it matches in location, mission, subordination, and organization the JIF described in the 1987 manual.¹² However, the JIF in 1987 was to be commanded by the EAC MI brigade commander associated with the theater in question, while the TIF in 1992 was to be commanded by an MI captain. FM 34-52's discussion of the MP role at this facility is limited. It mentions that the corps MP commander operates the EPW holding area, provides MP escort guard support for routine movement of EPW on the battlefield, and provides EPW processing units for administrative processing of EPW. The

text contains a single coordinating instruction to the TIF headquarters section regarding military police: “It coordinates with the provost marshal for location of theater EPW camps, and for procedures to be followed by interrogators and MP for processing, interrogating, and internment.”¹³ It does not articulate in this section the interaction between MI interrogation personnel and the military police in whose EPW holding area (cage) they are operating, not even a list of the procedures that require coordination. In a later section, however, interrogators are encouraged to question holding area personnel (by definition MPs) about EPW and detainees to obtain observations and information.¹⁴

A somewhat surprising omission from the 1992 version of FM 34-52 is a chapter on low-intensity conflict (LIC). This chapter first appeared in the field manual series in 1967 and, subsequently, had various titles: “Interrogation Support of Internal Defense Assistance Operations” (1967), “Interrogation Support of Stability Operations” (1969 and 1973), “Interrogation Support of Internal Defense and Development Operations” (1978), and “Low-Intensity Conflict” (1987). The only concise expression of interrogation support for LIC contained in the 1992 manual is a half-page table that lacks any supporting discussion in the accompanying text.¹⁵

Why is this absence of a chapter on LIC important? It is noted because historically the LIC chapter contained a lengthy and detailed discussion of the legal status of insurgents. Beginning in the 1967 edition of FM 30-15 and carrying through to the 1987 edition of FM 34-52, the actions of US forces toward insurgents were consistently governed by Article 3 of GPW. Despite the plethora of GPW cautions and warnings contained in the 1992 edition (FM 34-52), it does not clearly articulate an Article 3 protection clause nor how it should be applied to insurgents. The closest the 1992 manual comes to this is early acknowledgement that “captured insurgents are entitled to PW protection until their precise status has been determined by competent authority.”¹⁶

The appendices of this 1992 field manual contain three items relevant to this study. Appendix A is an extract from the UCMJ. It is two pages in length and conveys the text or elements of 10 articles. This appendix supports the main text of the manual in the section “Prohibition Against Use of Force.” Appendix D is a brief discussion of “Protected Persons Rights Versus Security Needs,” followed by one page of material extracted from the Geneva Convention Relating to Civilians (GC). It is placed here in support of a section titled “Interrogation of Protected Persons,” whom that section describes as “civilians and refugees caught in the middle of a

conflict.”¹⁷

Appendix G, “Individual and Collective Training,” encourages, based on the experience of operations in Grenada, Panama, and Iraq, MI commanders to seek out the MP unit with which there is an affiliation for EPW operations for the purpose of planning and conducting combined collective training. This appendix contains several suggestions for the conduct of combined training in the areas of scenario, personnel required, and multiple training sites. More than any other place in this manual, Appendix G contains recommendations that, if followed, would lead units in the field toward the manual authors’ two stated goals in this area: to describe IPW cage operational procedures and to delineate responsibilities between MI interrogators and MPs in the EPW environment. These are two self-assigned tasks the authors failed to accomplish themselves when writing the manual.

It is clear that when work on FM 34-52 began, during or immediately after Operation DESERT STORM, the MI interrogation community knew shortcomings existed in that portion of its doctrine pertaining to the relationship between interrogators and military police in the EPW environment. It stated as much in the summer of 1991. The new manual, when it was released in September 1992, contained heightened Geneva Convention and UCMJ warnings regarding treatment and handling of “sources.” But it failed to state, as every interrogation manual since 1967 had stated, the Article 3, GPW protection guaranteed to every detainee in the custody of US personnel. Nor was the text of Article 3 published in an appendix, as it had been in every version of this manual back to 1967. And the 1992 manual left to MI unit commanders, in Appendix G, the task of developing operational procedures for running an IPW cage. The next opportunity to apply the new intelligence interrogation doctrine came two years later, in Haiti, during Operation UPHOLD DEMOCRACY.

Military Police Doctrine

The US Army Military Police School published a revised edition of FM 19-4 in May 1993, newly titled *Military Police Battlefield Circulation Control, Area Security, and Enemy Prisoner of War Operations*. While this manual did not, in fact, supersede the 1976 version of FM 19-40, its preface indicates that where conflicts arose between it and FM 19-40, “the information in this publication will apply.”¹⁸ Information on EPW operations is contained in three chapters of this manual: Chapter 2, “Being Tactically Proficient;” Chapter 6, “Operating in Concert (Squad-minus to Platoon-plus);” and Chapter 11, “Processing, Evacuating, and Interning Captives.”

Appendix K, “Employing Military Working Dog Teams,” includes guidance on the use of dogs in and around EPW holding areas and detention facilities.

The Chapter 2 material is a concise summary of guidance to a patrol in the event that it takes captives. It contains no Geneva Convention cautions or warnings but does encourage the patrol to notify MI or psychological operations interrogators if the prisoners may be of high intelligence value.¹⁹

The Chapter 6 material is largely tactics, techniques, and procedures that MP units (below company level) employ to accomplish specific assigned tasks. In this case, the tasks include operating EPW collecting points and holding areas, field processing EPW, escorting EPW from the combat zone, and operating field detention facilities. The introduction to the EPW material contains a general caution with references to the Geneva Conventions, FM 27-10 (*The Law of Land Warfare*), AR 190-8, and AR 190-57.²⁰ Distributed throughout the remainder of the chapter are infrequent references to the Geneva Conventions, but never to a specific article. The chapter contains no UCMJ warnings of any kind.

Prominent in this chapter, however, are several references to MI interrogation teams and the coordination that is required between MP and MI personnel. These include the following:

- At collecting points and holding areas, MPs coordinate with MI personnel to determine if captives, their equipment, or their weapons are of intelligence value. MPs enable MI interrogation teams to observe captives. MPs expedite processing for captives selected for interrogation.²¹
- MPs coordinate with the MI interrogation team to determine if there will be a collocated interrogation site.²²
- MI team leader coordinates with the MP in charge to coordinate location of collecting point or holding area site and operating procedures.²³
- During processing, MPs coordinate the location of the MI screening site with MI personnel.²⁴
- MPs share observations concerning behavior of captives with MI screeners.²⁵

Chapter 11, “Processing, Evacuating, and Interning Captives,” addresses the procedures for handling EPW in the theater army (TA) environment. In a section titled “Guarding,” is a large table titled “Classification of Captives.”²⁶ The table is a careful deconstruction of the provisions of Articles

4 and 33, GPW that define EPW and retained-person status, and Article 4, GC that defines civilian internees, but without specific reference to either of these two Geneva Conventions.²⁷ This table defines detainees as “all other persons, including innocent civilians, displaced persons/refugees, suspect civilians, terrorists, espionage agents, and saboteurs.” In the column “Qualifying Factors,” the table states, “Treat as EPWs until a different legal status is ascertained by competent authority.” Thus, MP doctrine in 1993 gave the highest level of treatment (as EPW) to any detainee whose legal status had not yet been ascertained.

Chapter 11 also mentions the possibility of collocation of an MI interrogation site with an internment facility in two places.²⁸ In the first case, the MP leader is encouraged to consider the presence of a collocated MI interrogation site when selecting the site for the internment enclosure. In the second case, the MI personnel are encouraged to coordinate with the MPs running the internment facility to ensure the safety of cooperative detainees. But in neither place is there any detailed discussion of the deeper issues involved for either party, the type of issues that have recently garnered so much attention: command and control of the two collocated facilities, MP role (if any) in facilitating the interrogation process, conflict between MP and MI interpretations of Geneva Conventions, and so on.

Finally, Chapter 11 contains a brief section on the use of military working dogs (MWD), within the context of facility security.²⁹ The uses of MWD described in this chapter and later expanded upon in Appendix K, “Employing Military Working Dog Teams,” are totally consistent with the 1976 version of FM 19-40 and the other regulatory and doctrinal references cited later in Chapter 10 of this study. There is no doctrinal support of the use of MWD in an interrogation environment.

Notes

1. Staff Sergeant Kenneth A. Chick, "Evolving Interrogation Doctrine," in *Military Intelligence*, April-June 1991, 43-4.
2. Chick, 43.
3. Ibid.
4. FM 34-52, *Intelligence Interrogation* (Washington, DC: Department of the Army, 28 September 1992), page 1-7 to 1-9.
5. Ibid., page 1-9.
6. FM 34-52, 1987, page 2-7; FM 34-52, 1992, page 1-16.
7. FM 30-15, 1978, pages 3-41 to 3-43; FM 34-52, 1992, pages 2-10-11.
8. FM 34-52, 1992, 3-2.
9. Ibid., 3-9.
10. FM 34-52, 1992, 3-12.
11. Ibid., 2-12 and 2-22 to 2-24.
12. FM 34-52, 1987, Chapter 8.
13. FM 34-52, 1992, 2-22.
14. Ibid., 3-2.
15. Ibid., Table 2-2 on page 2-21.
16. Ibid., 1992, 1-7.
17. Ibid., 1992, 2-18. I find it peculiar that the authors saw fit to comment on the Geneva Convention status of civilians and refugees, but in the paragraph that immediately precedes this one, titled "Terrorists," they do not comment on the legal status of terrorists.
18. FM 19-4, *Military Police Battlefield Circulation Control, Area Security, and Enemy Prisoner of War Operations*, (Washington, DC: 7 May 1993), 4.
19. Ibid., 15.
20. AR 190-57. "Civilian Internees--Administration, Employment and Compensation." 4 March 1987.
21. FM 19-4, 1993, 72, 76, 77, and 83.
22. Ibid., 73 and 76.
23. Ibid., 77.
24. Ibid., 74.

25. Ibid., 76.

26. Ibid., 127.

27. The table carelessly cites two specific articles of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), Articles 68 and 78, as articles of “the Geneva Conventions,” failing to differentiate between the four conventions.

28. FM 19-4, 1993, 122 and 131.

29. Ibid., 127.

Chapter 10

Haiti: Operation UPHOLD DEMOCRACY (September 1994)

The brief American intervention in Haiti during Operation UPHOLD DEMOCRACY (19 September 1994-31 March 1995) is generally considered a military operation other than war. US forces, primarily from XVIIIth Airborne Corps and 10th Mountain Division, entered Haiti by air and sea to bring an end to the military regime of Lieutenant General Raoul Cedras and restore to power the government of Reverend Jean-Bertrand Aristide. The operation in Haiti is important to this study because of the establishment there of a JDF collocated with a JIF.

The mission to create and operate the JDF was assigned to 503d Military Police Battalion, 16th MP Brigade, from Fort Bragg, North Carolina. The task was further assigned to the 108th MP Company, which arrived in country on 21 September and assumed the detainee mission on 26 September.¹ At this time, the majority of the 10 detainees in custody were associates of General Cedras and functionaries of his government. These detainees were held in a temporary holding area at the headquarters of Combined Joint Task Force 190 (CJTF 190), two miles from the Port-au-Prince International Airport.

A larger and more secure facility was constructed inside a government-owned warehouse near the CJTF 190 headquarters. The JDF consisted of four large custody cells and one large holding cell, several isolation cells and interrogation booths, a quarantine area, visitation area, and administrative space for both MP and MI personnel. Around the detention facility and an adjacent empty warehouse building was a 4-foot metal wall with concertina wire. Guard shelters were placed at each corner of the compound and MP guards had stations inside the warehouse containing the detention cells. At night a machine gun team was placed on the building roof and an MWD patrol walked the outer and middle perimeter.²

Because GPW did not apply in this situation, the detainees in Haiti did not have EPW status. But the operations plan for the intervention provided that detainees would be treated in accordance with the Geneva Convention.³ Detainees thus were accounted for using the Prisoner-of-War Information System (PWIS), provided with medical screening and treatment, fingerprinted and photographed, and handled by MP personnel as persons with EPW status.⁴ They were permitted visitation three times a week. The ICRC inspected the facility on several occasions.⁵ The detainee population reached a high of about 200 during the first month of the JDF operation,

but was down to 24 on 9 January 1995, when discussions began with the Haitian government to transfer the facility to its control.⁶

The JIF collocated with the JDF was operated by Company B, 519th Military Intelligence Battalion, 525th MI Brigade, Fort Bragg, North Carolina. A sketch of the JDF shows interrogation booths inside the same warehouse building as the detention cells, and the MP and MI personnel side by side in an administrative area. It truly was an interrogation facility inside a detention facility. According to the only detailed description available of this facility, MI personnel operated station 6 of the processing line—initial screening.⁷ Decisions made at this station determined the detainee's cell assignment, with those having the most intelligence value assigned to cell A and the least to cell D. To interrogate a detainee, the MI interrogator handed the detainee's 3 x 5 card (created during in-processing) to a cell escort guard. The cell escort guard signed the detainee out of the cell block area with the sergeant of the guard and delivered the detainee to the interrogation area of the warehouse.⁸

While detailed descriptions of the activities of the several interrogation teams in the JIF are not available, it is clear from the Judge Advocate General (JAG) School's lessons-learned report that interrogators were doing things with detainees that made MP personnel uncomfortable. The JAG report cites "disagreements between military policemen and intelligence personnel over whether interrogation procedures constituted a form of coercion forbidden under the Geneva Convention and under the implementing policies."⁹ The disagreement between military policemen and MI interrogators was sufficient to attract the attention of the interrogation facility's judge advocate, who attempted to reconcile the conflicting views.¹⁰ The language of the December 1995 JAG lessons-learned report is instructive:

The interrogators must be brought to understand that treatment of individual detainees may not be arbitrary, and that absent articulable bases, the schedules for feeding, sleeping, and so on will be enforced as to all prisoners. Military police must accept that rules are meant to accommodate the collection of valuable intelligence, and that the questioning of a detainee may sometimes call for a reasonable, minimally intrusive variation of the camp's regimen.¹¹

While there is a clear suggestion in this text that the MI interrogators

may have been taking liberties with detainees' meals and sleep patterns, and perhaps other aspects of detainee comfort, participants in this operation deny that inference.¹² The Army legal scholars writing about this matter discuss this conflict in terms of MP and MI culture and are also careful to point out the difference between intelligence interrogation for informing a tactical commander and criminal interrogation to elicit a confession admissible for trial before a military judge.¹³ The larger lesson drawn from this obscure incident in a US Army detention facility in Haiti by the JAG School is that Army lawyers should "understand the different roles of military intelligence and military police."¹⁴

The seemingly minor conflict between military policemen and MI interrogators at the small joint detention/interrogation facility in Port-au-Prince may have appeared innocuous in 1994. In 2004, looking back 10 years from the perspective of Abu Ghraib Prison, these events might be more accurately viewed as the canary in the mine.

Notes

1. This chapter is based primarily on the article by Captain Edward R. Armstrong, "Detainee Operations in Haiti During Operation UPHOLD DEMOCRACY," *Military Police*, Winter 1995: 16-9. Armstrong commanded the 108th MP Company and the joint detention facility during Operation UPHOLD DEMOCRACY.

2. A passage in another study of this operation suggests MWD were also used in interrogations. See *Haiti: Combined Arms Assessment Team (CAAT) Initial Impressions Report Vol. 1* (Fort Leavenworth, KS: Center for Army Lessons Learned, 1995), Chapter 5 page 2, which states: "During the interrogation process, keep the K-9 dogs in the room. Haitians respect and fear dogs and admire the American MPs who can control them." In an e-mail correspondence with me, the author of the CALL report asserts that he witnessed the use of MWD to facilitate "battlefield questioning" conducted as part of cordon-and-search operations: "The detainee was intimidated by the presence of the dog and in a number of missions, they provided valuable information." The CALL report author never witnessed the use of an MWD at the JIF. Christopher Hughes, e-mail interview by author, 6 August 2004. The commander of the JDF and the judge advocate of the JIF also deny the use of MWD for interrogation facilitation. E-mail interviews by author with Major Edward Armstrong on 4 August 2004 and with Lieutenant Colonel Peter Becker on 1 August 2004.

3. See *Law and Military Operations in Haiti, 1994-95: Lessons Learned for Judge Advocates* (Charlottesville, VA: The Judge Advocate General School, 11 December 1995), footnote 191 on page 61.

4. To read the transcript of an oral interview with the PWIC commander, Major Aldene Hatcher, see Cynthia L. Hayden, ed., *JTF-190 Operation UPHOLD DEMOCRACY Oral History Interviews* (Fort Bragg, NC: XVIII Airborne Corps, 1998), 327-30.

5. According to the commander, 16th MP Brigade, the ICRC found the detention facility at Port-au-Prince about an hour after its creation and inspected it daily after that. See Colonel Michael L. Sullivan oral interview, *JTF-190 Operation UPHOLD DEMOCRACY Oral History Interviews*, 313-4. For more comments on ICRC procedure, see Lieutenant Colonel Karl K. Warner oral interview, *JTF-190 Operation UPHOLD DEMOCRACY Oral Interviews*, 265. Lieutenant Colonel Warner was the SJA for JTF-190.

6. *Law and Military Operations in Haiti*, 67. The commander, 525th MI Brigade, Colonel Richard J. Quirk, III, used the number 198 in reference to the number of detainees in his oral interview. See *JTF-190 Operation UPHOLD*

7. Armstrong, "Detainee Operations," 18; Hatcher's oral interview, 329.

8. This procedure is confirmed in Hatcher oral interview, 329.

9. *Law and Military Operations in Haiti*, 61.

10. The judge advocate for the JIF was Captain Peter G. Becker, who was assigned to the 525th MI Brigade, Fort Bragg, and came into Haiti as part of Task Force 180 (XVIIIth Airborne Corps). See Borch, *Judge Advocates in Combat*, 234. Becker was interviewed by the authors of the Center for Law and Military Operations (CLAMO) report in August 1995. See *Law and Military Operations in Haiti*, fn 184 on page 59.

11. *Law and Military Operations in Haiti*, 62.

12. When questioned about the specific nature of the MPs' complaints, their former commander indicated that "the MP guards may have seen, overheard, or witnessed threats that bordered on violations (emphasis in original)." He also stated that while the detainees "most definitely" were awakened in the middle of the night for interrogations, they were never "sleep deprived," nor were meals ever withheld from them. Major Edward Armstrong, e-mail interview by author, 4 August 2004. The former judge advocate of 525th MI Brigade supports this interpretation: "To my knowledge, there was no sleep or food deprivation." Lieutenant Colonel Peter Becker, e-mail interview by author, 1 August 2004.

13. *Law and Military Operations in Haiti*, 60. Major Armstrong brought up the "culture clash" as well in my e-mail interview with him. "From the onset it was made very clear to me by my chain of command that I was in charge of the facility and that it was a Military Police run mission, despite the attempts of the 525th MI to direct and provide orders to the MP Guards (author's emphasis)."

14. *Law and Military Operations in Haiti*, 59.

Chapter 11

Regulatory and Doctrinal Renewal

The US Army published a new version of AR 190-8 in November 1997.¹ It was designated a multi-service regulation, thus applying to all services and their reserve components when called to active duty. The regulation was expanded from its previous (1982) version to cover also matters pertaining to civilian internees. While the new regulation reflects a large number of changes in various aspects of EPW administration, this analysis will focus primarily on those changes from the old regulation that are germane to this study.

The purpose statement of the revised regulation is greatly expanded and identifies the four categories of persons to whom its provisions apply. These are enemy prisoners of war (EPW), retained persons (RP), civilian internees (CI), and other detainees (OD). Two definitions deserve elucidation. For purposes of this regulation, and by extension all the policy and doctrine that flow from it, an EPW is defined as “a detained person as defined in Articles 4 and 5 of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949.” ODs are defined as “Persons in the custody of the US Armed Forces who have not been classified as an EPW (article 4, GPW), RP (article 33, GPW), or CI (article 78, GC), [and who] shall be treated as EPWs until a legal status is ascertained by competent authority.”² The regulation applies to all persons in the four listed categories in the custody of US Armed Forces, “including those persons held during military operations other than war.” The “purpose” paragraph specifically lists the four Geneva Conventions of 1949 and gives precedence to these conventions over the regulation in the event of conflicts or discrepancies between the regulation and the conventions.³

AR 190-8 charges the secretaries of all the military departments with the following tasks:

- develop internal policies and procedures consistent with the regulation
- ensure that appropriate training is provided
- ensure that suspected or alleged violations are reported and investigated
- conduct a periodic review to ensure compliance with the law of war

The Secretary of the Army is named as the DoD Executive Agent for administering the DoD EPW, CI and RP program.

Departing from a practice of approximately 80 years, the regulation transfers Army primary responsibility for the EPW program from the Deputy Chief of Staff for Personnel (DCSPER) to the Deputy Chief of Staff for Operations and Plans (DCSOPS). Among the specific tasks assigned to DCSOPS are developing and disseminating policy guidance, reporting suspected or alleged violations, actions pertaining to EPW/CI/RP/OD information and accountability, and coordinating actions with several agencies. AR 190-8 assigns further specific tasks to the Army Judge Advocate General, Deputy Chief of Staff for Logistics, Assistant Secretary of the Army Financial Management, Combatant Commanders, and the US Army Criminal Investigation Command.

The heavy lifters in EPW operations are the combatant commanders, task force commanders, and joint task force commanders. The regulation charges them with overall responsibility for the EPW program, operations, and contingency plans in the theater of operation to ensure compliance with international law. Their responsibility includes proper force structure in any joint operational plans and proper accountability and humane treatment of all EPW, CI, RP, and ODs. The regulation assigns to commanders at all levels the responsibility to ensure that all detained persons are accounted for and treated humanely.

New in this regulation is a detailed statement of a general protection policy for EPW, CI, and RP in the custody of US Armed Forces. While ODs are not included in the general protection policy, by the regulation's definition of an OD they receive EPW treatment until a determination of their legal status has been made. In general terms, the general protection policy requires humanitarian care and treatment of all persons captured, detained, interned, or otherwise held in US Armed Forces custody from moment of capture until release or repatriation. The general protection policy includes a statement of several specific protections and prohibitions. Among these are the following:

- grants GPW protections until some other legal status is determined
- accords detainee suspects due process under GPW, GC, and UCMJ
- prohibits inhumane treatment even under combat stress
- establishes Article 3, GPW treatment as floor⁴
- protects against all acts of violence, insults, public curiosity, bodily injury, and reprisal
- prohibits photographing, filming, or video taping for other than specific listed purposes

- recognizes role of ICRC as protecting power
- grants specific rights to retained medical personnel
- lists protections for religious practices and practitioners

Paragraph 1-6 of the new regulation provides detailed guidance for the conduct of tribunals in accordance with Article 5, GPW to determine whether a detainee in the custody of US Armed Forces is entitled to EPW status under Article 4, GPW. If such a person is determined not to have EPW status, that person may not be executed, imprisoned, or otherwise penalized without further proceedings.

Chapter 2 of the regulation, “Beginning of Captivity EPW/RP,” provides guidance to a level of detail normally seen in field manuals regarding actions upon capture and evacuation and care of EPW and RP. Reflecting the joint nature of modern contingency operations, this chapter contains new material pertaining to limited, temporary holding and medical treatment of EPW/RP aboard ships at sea. The principle of non-forced repatriation, first established at the end of the Korean War and exercised again in Operation DESERT STORM, is restated.⁵

Chapter 3 governs the administration and operation of EPW internment facilities. The several pages that follow implement specific provisions of the Geneva Convention articles. Of particular interest is a proscription, except in extreme circumstances, of the internment of EPW/RP in correctional facilities housing military or civilian prisoners.⁶ Another provision charges the EPW/CI facility commander to provide an area for intelligence collection efforts.⁷ Other sections of this chapter address procedures for daily EPW facility operation, correspondence, discipline and security, punitive and judicial matters, damage or loss of government or private property, death and burial of EPW, transfer, repatriation, and complaints

The procedures that apply to the death and burial of an EPW or RP in US custody are exhaustive.⁸ AR 190-8 specifies duties for the camp commander, medical officer, and an investigating officer. A medical officer must establish and report the cause of death and whether it was, or was not, the result of the deceased’s own misconduct. The medical officer and commander together complete a certificate of death. If a death is believed to be the result of foul play (by guards, sentries, another detainee, or any other person), or a suicide, or from unknown causes, the commander appoints an investigating officer. If a death is caused by other than natural causes, US Army Criminal Investigation Command special agents must investigate. The three paragraphs of this chapter that address repatriation

fail to mention the United States' long-standing policy against forced repatriation⁹

The remainder of the regulation deals with employment of EPWs and their compensation (Chapter 4), and a large body of regulations pertaining to internment, administration, and employment and compensation of CI (Chapters 5-7). More than one-half of the regulation's page count is devoted to reproducible forms required for use in administering and operating EPW/RP and CI camps.

From a layperson's perspective, three aspects of this 1997 regulation stand out above all others. The regulation, like its predecessor, provides a statement of a general protection policy that is based upon Article 3, GPW. The regulation applies to every person who is in the custody of US Armed Forces from the moment of their capture until their release or repatriation. The regulation subordinates US Army and DoD policy on EPW matters to the Geneva Conventions whenever there is a conflict between them.

In 1996, the US Army Military Police Corps restructured its four combat support missions (battlefield circulation control, area security, EPW operations, and law and order operations) into five combat support functions (maneuver and mobility support, area security, law and order, internment/resettlement, and police intelligence operations). One of the belated results of this refocus was the publication of a new field manual to replace the aging FM 19-40, last revised in 1976. The new manual (FM 3-19.40), published on 1 August 2001, is titled *Military Police Internment/Resettlement Operations*. It covers a broad swath: EPW, civilian internees, US military prisoner operations, MP support to civil-military operations, humanitarian assistance, and emergency services. This analysis will be limited to the portion of the new field manual that pertains to EPW doctrine, and within that doctrine to the Geneva Conventions and interaction between MPs and MI interrogators. This material is found in Part One: "Fundamentals of Internment/Resettlement Operations," and Part Two: "Enemy Prisoners of War and Civilian Internees," which together comprise more than one-half of the manual's 234 pages.

Chapter 1 of FM 3-19.40 defines EPW, CI, RP, and OD with reference to specific articles of pertinent Geneva Conventions (GPW, GC) and AR 190-8.¹⁰ It identifies the Secretary of the Army as the DoD executive for I/R operations and administration. It also explains the Geneva Convention concept of "protecting power" and identifies the ICRC as the primary monitoring agent for the proper treatment of EPWs and other detained

persons. The new manual solidly grounds US Army doctrine in the Geneva Conventions. The section “Protection of Captives and Detainees” uses language extracted from Articles 3, 13, 14, 16, and 17 of GPW to enumerate a list of protections. The section “Protection of Enemy Prisoners of War and Civilian Internees” lists and briefly explains each of the four Geneva Conventions and links them to the laws of the United States. In at least two places, the text applies the Geneva Conventions to detainees from the moment of capture until release or repatriation.

Chapter 2, “Commander and Staff Responsibilities,” lists and explains the duties and responsibilities of the MP I/R facility commander and of his supporting staff. Because this field manual applies to so many types of facilities, the text is necessarily broad. It should be noted, however, that while the list of supporting staff officers includes 12 different staff functions, it does not include the intelligence officer or function.¹¹ Following the long-established pattern of this manual series dating back to 1952, the training section places the law of land warfare and Geneva Conventions first on a list of 12 training subjects.

Chapter 3 is a description of division collecting points (CP) and corps holding areas (CHA). The text is careful to point out that the MPs coordinate with the MI interrogation teams that will be working at both of these places. The chapter contains Geneva Convention warnings regarding use of coercion to obtain information from captives, stresses that inhumane treatment is a UCMJ violation, and requires acts and allegations of inhumane treatment to be reported through MP channels. The text mentions in two places the requirement to coordinate with MI personnel about the collocated interrogation team at CPs and CHAs. Issues to be coordinated include location of the site itself, operating procedures (with emphasis on accountability), MP assistance in identifying captives for interrogation, and MP search of prisoners for MI using proper procedures.¹²

The next destination for a detainee from the CP or CHA is normally an internment facility. Chapter 4 describes the procedures for handling, processing, and safeguarding EPWs as they are evacuated or transferred rearward. In 2001, the processing actions upon entry to an EPW facility are numerous: search, personal hygiene, medical evaluation, issue of personal items, administrative accountability, photography and fingerprinting, inventory of personal property, records review, and accountability transfer. The planned processing rate is eight EPW per hour. Surprisingly, citing the reason of limited manning, the chapter does not anticipate around-the-clock operation of the receiving and processing area. Despite the experi-

ence gained in Operation DESERT STORM, no mention is made of contingencies for mass surrenders. The plan is to bring EPWs into a holding area and keep them there for the length required to conduct the methodical in-processing.

In a practice that was learned by hard experience in Korea, the text advises separation of EPWs who hold opposing ideologies, and further segregation by rank, Geneva Convention status (EPW, CI, RP), and gender. The text also warns of the continuing need to reclassify or reassign detainees as more information about them becomes available or if they or other parties (MP or MI) challenge their original classification. The ultimate determinant of status, of course, is an Article 5, GPW tribunal, which this chapter fully acknowledges. The chapter provides for the transfer of EPW from US custody to the custody of the host nation or an allied force upon the approval of the Secretary of Defense, and provided that power is a party to the Geneva Conventions. Curiously, the discussion of repatriation does not contain a statement regarding the long-standing US policy, since the Korean War, of “no forced repatriation.”

While this chapter contains an entire section titled “Intelligence Information,” the content of the section is “internal intelligence”, i.e., information regarding EPW activities within the confines of the internment facility as opposed to “external intelligence,” or information of a tactical or strategic nature of interest to external agencies. The chapter contains no discussion of the activities of MI interrogation teams beyond their existence, or of the coordination required by the MP commander for MI interrogators to operate near or within his internment facility. Chapter 6, “Internment/Resettlement Facilities,” also lacks discussion of MI activities. This chapter contains no mention of MI interrogation facilities or personnel beyond their presence to observe and assist with processing EPWs during intake.

Chapter 5, “Civilian Internees,” (CI) is of interest to this study because in this field manual, an insurgent is defined as a “civilian internee,” one who has committed an offense against the detaining power.¹³ As a CI, according to this chapter, an insurgent is entitled to treatment in accordance with the GC. The listed general protections afforded CIs include those found in Article 3, GC that is common to all four of the Geneva Conventions. The remainder of this chapter recommends specific techniques and procedures for administering the internment of CIs in accordance with AR 190-8 and the GC. These techniques and procedures closely resemble those used in operating an internment facility for EPWs.

No review of this MP field manual would be complete without mention of the doctrinal use of MWD. The doctrine expressed in this manual remains essentially unchanged from the first mention of MWD in this series in 1976: MWD are employed to reinforce security measures around and within an internment facility, conduct contraband inspections, accompany work details, and track escapees.¹⁴ There is no provision in MP internment/resettlement doctrine, in 2001, for the use of MWD to facilitate or assist in interrogations.

In broad overview, the August 2001 version of FM 3-19.40 is strong in its presentation and application of Geneva Convention material. It is much less forceful in linking violations of Geneva Convention protections to the UCMJ. This field manual acknowledges the presence of MI interrogation teams at collecting points, corps holding areas, and internment facilities. It encourages MP commanders to coordinate with MI interrogators at collecting points and corps holding areas. But, it fails to give more than perfunctory acknowledgment to the presence and activities of MI interrogators at internment facilities. On the use of military working dogs this manual is unequivocal—MWD are only used to enhance security.

Notes

1. Army Regulation 190-8, *Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees*, 1 November 1997. The regulation can be read or downloaded from the Internet at www.usapa.army.mil/pdffiles/r190_8.pdf; last accessed on 29 July 2004.
2. AR 190-8, 1997, 33.
3. Ibid., paragraph 1-1, page 1.
4. The text of AR 190-8 on this point (paragraph 1-5.b) does not specify Article 3, GPW, but the words and phrases are taken from Article 3, GPW.
5. See paragraph 2-2.d., page 5.
6. See paragraph 3-2.b., page 5. I think the prison at Abu Ghraib would qualify here as a “correctional facility housing military or civilian prisoners.”
7. See paragraph 3-3.a.(23) on page 6.
8. See paragraph 3-10. “Death and Burial,” on pages 11-2.
9. See paragraphs 3-12, -13, and -14.
10. FM 3-19.40, *Military Police Internment/Resettlement Operations*, 1 August 2001, 1-2 to 1-4.
11. In order, these supporting staff officers are the adjutant general, finance officer, civil-military operations officer, chaplain, engineer officer, public affairs officer, signal officer, staff judge advocate, surgeon (medical operations), movement control officer, inspector general, and psychological operations officer. See FM 3-19.40, 2001, 2-9 to 2-13.
12. Figure 3-4 in FM 3-19.40, 2001, showing a CHA, is reproduced from the 1993 version of FM 19-4. The failure in 2001 to identify the four GP-medium tents for “Intelligence/Screening and Interrogation” is probably an editorial oversight. See FM 19-4, 1993, 75; FM 3-19.40, 2001, 3-15.
13. The use of the term “insurgent” in this text matches the use of the term “saboteur” in paragraph 5-1.e of the governing regulation, AR 190-8.
14. See FM 3-19.40, 2001, pages 2-7, 4-23, and 5-18.

Chapter 12

Analysis and Conclusions

Four major themes have emerged in this study that are useful in shaping its analysis and conclusions: the application of Geneva Convention standards to the conduct of US Army forces in specific conflict situations; the statement of a US policy with regard to the treatment of EPW and detainees as reflected in Army regulations; the statement of Geneva Convention standards of EPW and detainee treatment in MP and MI interrogation doctrinal publications; and the doctrinal relationship of US Army MP and MI personnel to each other on the battlefield and in EPW confinement facilities.

The Korean War case study demonstrated first of all the United Nations Command's (in effect the US Eighth Army's) lack of preparedness to support the logistical requirements for transporting, housing, clothing, and feeding tens of thousands of prisoners brought into custody over a period of just several weeks. Eighth Army had neither the force structure nor the supplies in hand to accomplish the mission. It resorted to the use of both ROK army units on a continuous basis and American combat units intermittently to accomplish the EPW mission.

American commanders were not prepared for the ideological struggle that ensued in their EPW camps among and between the Communist and anti-Communist Korean and Chinese detainees, and between the Communist detainees and the camp administrations. For the North Korean and Chinese Communist detainees, the EPW camp was simply the continuation of the armed struggle in another location and with other weapons. The United Nations Command (UNC) spent most of the war attempting to establish and maintain physical order in its camps and was never entirely successful.

The Korean War demonstrated the importance of the ICRC's role. The ICRC inspected UNC facilities early and often and communicated its displeasure with camp conditions to the UNC whenever necessary. The theater commander felt compelled on at least one occasion to respond to ICRC inspection reports. The UNC did not always enjoy the favor of the ICRC, but the UNC certainly respected its work and, for the most part, sought to remain in compliance with its interpretations of Geneva Convention requirements. While the UNC always sought reciprocity in North Korean treatment of UNC prisoners of war, it was never successful in obtaining it. Despite the horrible treatment given to UNC prisoners in the north, world

public opinion fixated on the conditions and activities in UNC camps in the south.

The principle of “no forced repatriation” was established in the Korean War. The 1949 Geneva Conventions did not provide for EPW not wanting to return to the control of their governments at the end of conflicts. In Korea, this issue resulted from a decision at the national command authority level and, in the end, extended the peace talks for a considerable period of time. North Korean and Chinese prisoners who did not wish to return to their homelands were not forced to do so.

The Vietnam War brought a somewhat different set of issues to the surface. The first was how to apply the Geneva Conventions in an insurgency environment. After the summary execution of a few American advisers in the summer of 1965, the US government determined that Article 3, GPW would be applied to all detainees upon capture. This became the standard of treatment in early 1966 and has remained so to this day, either expressed or implied by the language of regulations and doctrinal manuals. In Vietnam, an Article 5, GPW tribunal process was codified to sort out those not entitled to EPW, CI, or RP status. Saboteurs would be made subject to South Vietnamese criminal law.

To comply with the transfer provisions of Article 12, GPW, the American government had to impose compliance with Geneva Conventions on its coalition allies, primarily the South Vietnamese, which it did in early 1966. All EPW and detainees in the Vietnam conflict were placed in camps run by the South Vietnamese government. US Army MP advisory teams were assigned to those camps both to assist the South Vietnamese and also to ensure that Geneva Convention requirements were met. All EPW received medical treatment in the US military medical treatment system. The ICRC inspected South Vietnamese detention facilities regularly and issued reports to both Washington and Hanoi. As in the Korean conflict, world public opinion seemed more attuned to the plight of prisoners in relatively benign South Vietnamese detention facilities than to the tortured inhabitants of cells in the Hanoi Hilton.

By agreement between the two governments, combined interrogation centers were established at divisions, corps, and in one central location near Saigon. The primary benefit to the United States was the language expertise that resided on the South Vietnamese side. The primary benefit to the interrogated source was the overwatch of American personnel ensuring adherence to humane standards of treatment during interrogation.

Grenada (Operation URGENT FURY) in 1983 and Panama (Operation JUST CAUSE) in 1989-90 were two contingency operations where successful EPW operations were conducted. In Grenada, combat forces had to guard and provide for detainees until a small MP unit arrived on the scene from Fort Bragg. The logistic system was not prepared to house, clothe, and feed detainees at the outset of the operation. The determination as to how detainees would be regarded under the Geneva Conventions was made at the JCS and State Department levels. ICRC offices were used to repatriate Cuban remains and detainees back to Cuba at the conclusion of hostilities.

The planners for Operation JUST CAUSE made some preliminary provision for the establishment and operation of a central detainee collection camp (CDCC). All detainees were initially accorded EPW status and the MP, MI, and judge advocate officers at the CDCC conducted informal Article 5-type hearings to resolve doubtful cases. ICRC inspections were facilitated and detainees received needed medical screening and treatment. Detainee operations in Grenada and Panama were relatively small in scale and of short duration. While these operations tasked the ingenuity of the MP and MI units involved, they did not challenge the doctrine of either branch.

Operation DESERT STORM in early 1991 engendered the largest EPW operation by US forces since the Korean War. The US Army brought in the purpose-designed 800th Military Police Brigade (EPW), a USAR unit headquartered in New York and comprised of units from all across the United States. The brigade, assigned to the theater army logistics command, established four large EPW compounds in northern Saudi Arabia in two pairs. Army Reserve MP EPW camp advisory teams were also activated and brought to the theater to assist the Kingdom of Saudi Arabia (KSA) Army in setting up or taking over operation of US-constructed camps. The US logistic system was not prepared to provide the required supplies and transportation for EPW camp operations. The KSA stepped in and accepted responsibility for a large portion of the logistical support of the EPW camp system. The prisoner population, with very few exceptions, remained compliant throughout the brief period of the operation. In the end, all EPWs and some of the camps were turned over to Saudi control. The command of the 800th MP Brigade was rebuffed in its efforts to conduct formal Article 5 tribunals, so instead resorted to informal tribunals. About 13,000 of the total 80,000 prisoners refused repatriation back to Iraq after the war, reaffirming the principle of “no forced repatriation.”

In Iraq, one joint interrogation facility (JIF) was established at or near to each of the pairs of EPW camps. An open-source article written in the spring of 1991 identified issues pertaining to lack of uniformity in cage operations and lack of clear guidance for handling prisoners and collecting information from them. These issues, which in both cases revolve around the relationship between MP and MI missions, were to be addressed in the revision of the intelligence interrogations manual in preparation at that time.

The final case study, Operation UPHOLD DEMOCRACY in Haiti, looked at a small JDF/JIF in Port-au-Prince. Military police at this facility were so concerned about the conduct of some interrogations they complained to the judge advocate of the MI brigade running the JIF. The legal community interpreted this as a “culture clash” fostered by the competing missions of the MPs and MI interrogators. The JDF/JIF facility at Port-au-Prince may have manifested the early signs of the stress fracture between the MP and MI doctrines that burst into full public view in 2004.

Army regulations pertaining to EPW were revised infrequently—in 1963, 1982, and 1997. In 1963, responsibility for prisoner-of-war matters resided in the office of the Deputy Chief of Staff for Personnel (DCSPER). Clearly, this regulation was informed by the Geneva Conventions, particularly in the chapters on administration of EPWs and exploitation of their labor potential. The regulation regarded the ICRC more as a relief than a “watchdog” organization. The regulation provided only for the repatriation of sick and wounded EPWs and retained persons. It did not address the principle of “no forced repatriation,” the establishment of which prolonged the Panmunjom peace talks by perhaps as much as two years. Most importantly, the regulation did not contain a statement of a general protection or treatment policy of the United States. Ironically, the authority page of the 1963 regulation bore the signature block of General Earle G. Wheeler, at the time Chief of Staff, US Army. It was General Wheeler who, as Chairman of the Joint Chiefs of Staff, commissioned an EPW study in 1965 and mandated Article 3, GPW as the floor for treatment of all detainees in Southeast Asia in early 1966.

The first statement of a general protection policy on the treatment given EPW and other detained persons appeared in the revised and re-numbered AR 190-8 published in 1982. That policy was based on and used the language of several articles of GPW and was buttressed with UCMJ warnings. Included in the general protection policy statement was recognition of the ICRC in its role as a humanitarian organization and

protecting power. This regulation also guaranteed EPW treatment to all captured personnel until such time as their status had been determined by an Article 5 tribunal. While the regulation contained detailed instructions for the repatriation of sick and wounded EPWs and RP, it did not mention the principle of “no forced repatriation.” Repatriation of other EPW depended on issuance of instructions by the State Department through DoD.¹

The most recent version of AR 190-8 is, in fact, a multi-service regulation that encompasses responsibility for EPWs, RP, and CI. The baton for execution of this regulation was passed from DCSPER to DCSOPS. The new regulation addresses the responsibilities of combatant commanders, task force commanders, and joint task force commanders. It contains a detailed statement of a general protection policy that is rooted in GPW articles and backed up with multiple UCMJ warnings. It lays out procedures for conducting Article 5 tribunals. The current regulation does acknowledge the right of detainees not to repatriate, a principle established in Korea in 1953 and reaffirmed in Operation DESERT STORM in 1991. The most striking characterization that can be made about this current regulation is that in cases where US policy conflicts with the Geneva Conventions, the provisions of the Geneva Conventions take precedence.

This study reviewed the Geneva Convention content of five MP EPW doctrinal field manuals, published in 1952, 1964, 1967, 1976, and 2001. It found that over this 50-year period, MP EPW doctrine has been consistently and solidly grounded in the Geneva Conventions, particularly the GPW. The quantity of Geneva Convention material in the text of MP field manuals has grown steadily over time. The Geneva Conventions have consistently been listed first among several training subjects for MP camp-operating and guard personnel throughout the period of the study.

The requirement that Article 3, GPW treatment be extended to insurgents first appeared in the 1967 version of FM 19-40. The language of Article 3, and other articles, was used and applied to all EPW in the subsequent versions of the manual. A UCMJ warning was first added to the basic protection policy statement in 1976 and appeared in both subsequent manuals. From 1952 to 2001, MP field manuals have consistently assigned responsibility for EPW handling and treatment to commanders. The statement of command responsibility was weakened in the 2001 field manual because of its more general nature (internment/resettlement vice EPW operations).² All MP doctrine published since 1976 has emphasized the use of MWD only for security purposes and never to facilitate interrogation.

In the main, the Geneva Convention and UCMJ warnings contained in the present MP doctrinal manual for EPW operations are more than adequate. If MPs are trained in this doctrine and their training is reinforced by competent leadership and discipline at the unit level, they will know what is proper in the treatment of detainees and will do the right thing.

This study reviewed the Geneva Convention content of seven MI interrogation doctrinal field manuals, published in 1951, 1967, 1969, 1973, 1978, 1982, and 1992. It found that over this 40-year period, MI interrogation doctrine has been consistently and solidly grounded in the Geneva Conventions, particularly the GPW. The quantity of Geneva Convention material in the text of MI interrogation manuals has grown steadily over time. The training of interrogator personnel specifically in provisions of the Geneva Conventions was not mentioned in this manual series until 1978.

The requirement that Article 3, GPW treatment be extended to insurgents first appeared in the 1967 version of FM 30-15. The text of Article 3 was included as an appendix to all five manuals in the series from 1967 to 1987. The language of Article 3 was used and applied to all insurgents (author's emphasis) in the subsequent versions of the manual through the 1987 version. Article 3 treatment is not mentioned in the 1992 version. A UCMJ warning was first added to the text in 1973 (in the "scope," "responsibilities," and "use of force" sections) and appeared in all subsequent manuals.

Command responsibility for lawful EPW handling and treatment was not addressed as a doctrinal imperative until the 1973 manual. It was emphasized again in the 1978 manual, but was not mentioned at all in the 1987 manual. In 1992, no "command" responsibility was assigned, but the J2, G2, or S2 were assigned "primary staff responsibility" for the lawful handling of detainees.

Every MI interrogation field manual published in the period of this study contained a section titled "coercion," "use of force," or "prohibition against the use of force." These sections appeared near the front of each manual and grew increasingly stronger in tone and content over the studied period. The current (1992) manual contained the most detailed and strongest prohibitory language, citing the Geneva Conventions and several UCMJ articles. On the whole, the Geneva Convention and UCMJ warnings contained in the present MI interrogation doctrinal manual are more than adequate. If MI interrogators are trained in this doctrine and their

training is reinforced by competent leadership and discipline at the unit level, MI interrogators will know what is proper in the treatment of detainees and will do the right thing.

The final, and perhaps most important issue that emerged in the course of this study is the doctrinal relationship between MP guards and MI interrogators. This relationship has to be examined from two perspectives—the role of MP guards and commanders as seen through the eyes of intelligence interrogation doctrine, and the acceptance or rejection of that role by military police in their own EPW detention doctrine.

Across the 50-year period of this study, MP doctrine has consistently separated (perhaps *isolated* is a better word) military police from the intelligence interrogation function. While maintaining this strict separation, MP field manuals have recognized the importance of intelligence interrogation and in 1964 and 1967 even listed “acquisition of maximum intelligence information” as the first of five objectives in handling EPW and CI. MP doctrine has encouraged MPs to handle prisoners properly so as not to reduce their value as information sources. Through the 1967 manual, for example, MPs were encouraged not to give comfort items to EPW before their first interrogation, leaving that useful tool for the interrogators.

In discussions of the use of intelligence in EPW facilities, MP doctrine has carefully delineated “internal” (camp-related) from “external” (tactical-use) intelligence. The 1964 and 1967 manuals encouraged EPW camp-operating personnel to furnish information or identify knowledgeable EPW to MI personnel. The 1967 manual extended this encouragement to escort guards, to “note attitudes, conduct, and personality traits of PWs during handling and evacuation and report their observations to interrogator personnel.”

This study detected a noticeable change in the tenor of MP field manuals, however, in 1976. The first listed objective of the EPW program shifted from “acquisition of maximum intelligence information” (1967) to “implementation of the Geneva Conventions” (1976). Encouragement to escort guard and camp operating personnel to make observations of EPW and share these observations with interrogators disappeared from print, along with the section of the manual titled “Support of Intelligence Agencies.” The 1976 manual acknowledged the presence of interrogation teams at division collecting points, corps holding areas, and in COMMZ PW camps, but did not instruct the MP community about effectively coordinating with MI interrogation units or personnel. The two schematics of

EPW facilities in the 1976 manual did not show any accommodation for MI interrogation activities. These shifts in emphasis were subtle but still visible.

Because the next version of FM 19-40 was not published until August 2001 (a not insignificant gap of 25 years!), one must look at two interim MP manuals to detect change. These are two versions of FM 19-4, published in 1984 and again in 1994. Only the 1994 version informs this discussion.³ The 1994 manual directed military police at screening sites to help MI screeners identify potential sources among the captives and also to be responsive to MI screener questions regarding captives' behavior. It directed military police setting up an EPW holding area to coordinate with a collocated MI interrogation element regarding its operating requirements. While one of the considerations in setting up a theater internment facility was the presence of a collocated MI interrogation site, the two diagrams that accompany this text did not show provision for an interrogation site within the enclosure or facility. Finally, the text of the 1994 manual placed MI personnel at the theater army's internment facility, noting that the MI interrogators coordinated with the internment facility to arrange for the safety of cooperative captives.

The 2001 edition of FM 3-19.40 contained elaborative material on the setup of a collocated screening site, providing military police with more detailed information on the items to be coordinated with the MI interrogation team personnel. The section on internal intelligence information in the context of the internment facility in the 2001 manual was lifted directly from the 1976 manual, with only minor editorial modification. Beyond the role of MI screeners in the intake processing line, this manual studiously avoided discussion of the presence of MI personnel or an interrogation facility near or within an internment facility. The MP EPW doctrinal universe in August 2001 was narrowly construed, indeed.

In the MI interrogation doctrine manual series, material that informs the MP-MI interface discussion first began to appear in the 1967 version of FM 30-15. It was an instruction to interrogators to work closely with guards at field army cages, followed by an affirmation of the importance of cooperative guards and MP personnel in the accomplishment of the interrogation mission. Further, the text directed the interrogation center chief to maintain close and harmonious relations with the cage commander. These nods toward the military police were repeated in the 1969 and 1973 versions of the field manual.

In the 1978 edition of FM 30-15, interrogators were advised to question

guards before an interrogation, to learn such things as circumstances of capture, treatment afforded the source since capture, attitude, and behavior. The field manual acknowledged in several places the MP mission to operate EPW collecting points and holding facilities at several tactical echelons. This manual described the corps interrogation center as being within or adjacent to the EPW holding area, and directed the interrogators to work closely with guards and the holding area commander. The duties of the guards included maintenance of discipline during screening and proper handling of prisoners so as to “enhance” interrogation by reducing EPW resistance. It should be understood that “proper handling” in 1978 meant handling in strict observance of the Geneva Conventions. The duty of the holding area commander was to provide adequate space, shelter, light, and other services. There did not appear to be any confusion over MP and MI roles in 1978.

MI interrogation doctrine in 1987 still encouraged MI screeners to question MP guards on a host of issues concerning the source: attitude and behavior, physical condition, contact with other guards or sources, confirmation of capture data, handling since capture, response to orders, requests made by the source, and what sources may have greater knowledge. It should be noted that these are all passive activities.

The 1987 manual was considerably more specific in describing the coordination required to operate an interrogation site at or near an EPW holding area. It tasked the senior interrogator with the coordination task and listed the following specific issues to be discussed with the military police in charge of the holding area: screening site, medical support, guards, movement routes, evacuation, communications, and site preparations (to include area for document exploitation).

In the text that described the establishment of a JIF, one of the responsibilities listed for the JIF commander (EAC MI brigade commander) was “coordinate with the provost marshal for all site operations.” A section titled “Coordination” actually attempted to assign responsibilities between the EPW camp commander (provost marshal) and the JIF commander. The EPW camp commander was responsible for locating the camp, arranging the security of the camp, and planning for segregation and safeguarding of JIF sources. In the event the camp had to be evacuated, the EPW camp commander was also responsible for evacuating, safeguarding, and control of sources during evacuation. The JIF commander was responsible for security of the JIF and control over the sources within the JIF. In 1987 there still remained clear boundaries between MI and MP functions. MI

doctrine expected MP guards to have a passive reporting role with respect to source behaviors. MI doctrine expected MP commanders to provide specific types of support to a JIF.

MI interrogation doctrine in 1992 continued the practice of identifying guards both as suppliers of information about sources and, through their proper handling of sources, contributors to interrogation success. The 1992 doctrine also implied a more active role for guards in “facilitating” the screening process by unspecified behaviors. In the operation of a TIF, the 1992 doctrine directed the MI element commander to coordinate with the provost marshal for location of EPW camps and for procedures to be followed by interrogators and military police for processing, interrogating, and internment. In the event of an evacuation of a corps EPW holding area, MI doctrine expected the MP commander to provide escort guard support, transportation, rations, and administrative processing. In addition to the nuanced role of MP guards in screening, the other new element in the 1992 MI interrogation doctrine regarding the MP/MI interface was a two-page recommendation, in Appendix G, for the conduct of joint training.

Both MI and MP doctrines, as expressed in 1992 and 2001 manuals respectively, are consistent in one respect. Both require that guard personnel treat and handle detainees properly, that is, in accordance with the provisions of the Geneva Conventions. And neither requires that guards take anything other than a passive role with respect to “enhancing” the interrogation process. MI doctrine, however, contains raised expectations of MP guard conduct during screening, and it is not a far leap from screening to interrogation.

At the command level, MI doctrine over time has been much more directive and elaborative in describing the coordination required between interrogation unit commanders and MP EPW holding area and camp commanders. For the military police, doctrine has been much less directive and elaborative in describing the coordination required of its commanders to support interrogation operations in their midst. For the military police, a collocated interrogation facility has been like the elephant in the room that no one wants to address.

In August 2001, on the eve of the Global War on Terrorism, no doctrinal deficiency in Geneva Convention requirements existed in either the MP detention or MI interrogation manuals. A doctrinal gap existed though, particularly in MP detention doctrine, in describing the command and support relationship between these two elements in a common setting—the

joint detention/interrogation facility. The origin of this gap may be traced as far back in doctrinal publications as 1976, when the MP objective in EPW operations changed from “maximum acquisition of intelligence information” to “implementation of the Geneva Conventions.” The gap grew wider as MI field manuals, published with greater frequency in the last two decades, contained expanded descriptions of interrogation operations inside joint facilities, while MP field manuals ignored the issue. This study has shown this is not a doctrinal deficiency, but a doctrinal gap. Now the challenge before the US Army doctrinal community is to close this gap before further lasting harm is done to the interests of both the Army and the nation.

Notes

1. Army Regulation (AR) 190-8, 1982, paragraph 2-24.

2. While all previous manuals in the FM 19-40 series use phrases like “responsible for handling and treatment,” the 2001 manual uses the words “responsible for the safety and well-being of all personnel housed within the facility.” See FM 3-19.40, 2001, page 2-1. In this author’s opinion, this language is weaker when applied to the EPW context.

3. The 1984 FM 19-4, *Military Police Team, Squad, Platoon Combat Operations*, defers to the 1976 edition of FM 19-40 on all issues pertaining to detailed EPW treatment and handling.

Appendix A

Geneva Convention Relative to the Treatment of Prisoners of War

12 August 1949

Article 3.

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Note: While cited from GPW, this article is also included as Article 3 in GWS, GWS Sea, and GC.

Source: Department of the Army Pamphlet 27-1, *Treaties Governing Land Warfare*, December 1956.

Appendix B

Recommendations Extracted for Special Attention

1. That training in resisting capture and resisting the enemy in captivity should be stressed in US military training programs.
2. That service publications should be evaluated for possible revision in connection with information regarding survival in a captive status.
3. That each serviceman be given training in the propaganda methods of the enemy. This would prepare him to resist the exploitation effort of the enemy should he become a captive.
4. That the US stress to the American serviceman in training that he will never be forgotten, and not to give up hope and loyalty in the US.
5. That the Code of Conduct be reevaluated at the conclusion of the Vietnam Conflict to determine if it is still applicable.
6. That intelligence training be examined regarding the collection and evaluation of captured enemy documents to ensure that the instruction is adequate.
7. That experienced troops be ready to perform the mission of guarding and interning EPW.
8. That prior planning be continually accomplished with respect to the internment of PW.
9. That the discipline and punishment provisions of the GPW be reassessed to determine their practical application for the present and future.
10. That the operational aspects of the PW program in the RVN be handled by an operational headquarters rather than a policy-making headquarters.
11. That the DoD publish a directive to the services with respect to PW activities.
12. That TPMG [The Provost Marshal General] continue to have staff responsibility for the Army with respect to EPW activities and that he be given staff responsibility for the Army with respect to USPW activities.
13. That the US [government] keep the public well informed regarding the operation of the PW program so that their support will enhance the US position.
14. That the term 'classification' as utilized in the RVN and the definition thereof be adopted as US doctrine.

15. That the term 'categorization' be substituted for the term 'classification' in current doctrine wherever it refers to the grouping of individuals who have already been designated PW.

16. That the service responsibility for the application of the classification function be delegated to the Army in JCS Pub 3.

17. That all personnel connected with record keeping and gathering of information regarding deceased enemy personnel be apprised of the consequences which could arise because of the lack of information in this field.

18. That graves registration procedures be reviewed with the Chief of Support Services with respect to the US responsibilities concerning deceased enemy personnel to preclude any inaccuracies and inconsistencies in the reporting system regarding the disposition of remains, disposition of property, and burial location of such personnel.

19. That attempts be made to have third (neutral) countries care for PW and CI captured by the US in general and limited warfare situations.

20. That host countries care for PW and CI captured by the US in stability operations.

21. That in every conflict in which the US becomes involved, specific hospitals be designated for the medical care, handling, and security of wounded and sick enemy personnel.

22. That PSYOP doctrine be reevaluated to ensure that it is in accord with the US goals and policies and the provisions of the Geneva Conventions.

23. That information center activities as advocated in US doctrine be established for the current conflict in the RVN.

24. That an Office of Record continue to be operative without interruption between conflicts and not be subject to manpower cutbacks.

25. That the training in AIT be reevaluated to ensure that individuals are receiving an adequate amount of training in USPW subjects.

26. That the training in officer basic courses in USPW subjects be reevaluated to ensure that each branch is getting an appropriate amount of training.

27. That practice under field conditions in survival, evasion, and escape be integrated into officer advanced courses.

28. That training at troop unit level be a subject of annual general inspections to ensure that personnel are receiving the necessary instruction

in PW subjects.

29. That all personnel in the US Army be made aware of the importance of PW subjects through Command Information Programs.

30. That 95C MOS requirements be rewritten to include mission as PW personnel.

31. That personnel with MOS 95C receive training in PW duties so that they will be able to function in that capacity when necessary.

32. That the lessons learned in Korea continue to be used by the US as training points and that they be incorporated into the operation of our present program.

33. That all US military personnel be shown the parallels between Soviet indoctrination of EPW during WWII and North Korean and CCF indoctrination of USPW during the Korean War. Through this procedure US servicemen will become familiar with communist indoctrination techniques and will be better prepared to resist those techniques should they become PW of a Communist nation.

34. That the active MP PW units be given a higher priority with respect to their readiness posture.

35. That the reserve and national guard MP PW units be granted a higher state of readiness so that they will not require as much preparation once they have been called to active duty.

36. That the US stockpile certain items of equipment for the health and welfare of the EPW and their guards in a mass surrender situation.

37. That a PW camp, a processing platoon, and a Branch PW Internment Camp be added to the force structure in the European theater of operations.

38. That the comments of TSG [The Surgeon General] should be included in training programs concerned with PW survival, with emphasis on measures relating to the prevention of disease.

39. That the ration scales and nutritive analysis be given the widest possible dissemination to commanders who must administer to PW and CI.

Source: *A Review of United States Policy on Treatment of Prisoners of War*, The Prisoner of War Study Group, Office of The Provost Marshal General, Department of the Army (Washington, DC: 1968. DTIC AD 504 748-2 [3 volumes]), XI-156-64.

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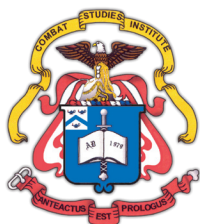
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